

Planning and Environment Act 1987

Panel Report

**Yarra Planning Scheme Amendment C223yara
81-95 Burnley Street and 26 Doonside Street, Richmond**

23 July 2020

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment, section 27(1) of the *Planning and Environment Act 1987* (the Act).

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations, section 31 (1) of the Act and section 9 of the *Planning and Environment Regulations 2015*.

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette under section 37 of the Act.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Yarra Planning Scheme Amendment C223yara

81-95 Burnley Street and 26 Doonside Street, Richmond

23 July 2020



Dalia Cook, Chair



Andrew Hutson, Member

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Glossary

the Act	<i>Planning and Environment Act 1987</i>
the Amendment	Amendment C223yara to the Yarra Planning Scheme
Council	Yarra City Council
DELWP	Department of Environment, Land, Water and Planning
DPO15	Development Plan Overlay Schedule 15
EAO	Environmental Audit Overlay
IFP	Indicative Framework Plan
MUZ	Mixed Use Zone
Planning Scheme	Yarra Planning Scheme
PPN	Planning Practice Note
TIAR	Traffic Impact Assessment Report
VCAT	Victorian Civil and Administrative Tribunal

Overview

Amendment summary	
The Amendment	Yarra Planning Scheme Amendment C223yara
Common name	81-95 Burnley Street and 26 Doonside Street, Richmond
Brief description	The Amendment seeks to rezone the land at 81-95 Burnley Street and 26 Doonside Street, Richmond from Industrial 3 Zone to Mixed Use Zone and to apply the Development Plan Overlay Schedule 15. It also proposes to apply the Environmental Audit Overlay to the land.
Subject land	81-95 Burnley Street and 26 Doonside Street, Richmond
The Proponent	Astrodome Pty Ltd
Planning Authority	Yarra City Council
Authorisation	Conditional authorisation 19 February 2018 Re-authorisation 9 August 2019
Exhibition	19 September to 24 October 2019
Submissions	Number of Submissions: 53 Opposed: 48

Panel process	
The Panel	Dalia Cook (Chair), Andrew Hutson
Directions Hearing	On the papers
Panel Hearing	18, 19, 22, 25, 26, 27 May and 9 June 2020, via video conference
Site inspections	Unaccompanied (various dates including before and after the hearing)
Parties to the Hearing	<p>Yarra City Council represented by Ms Adeline Lane of Marcus Lane Group, who called expert evidence from:</p> <ul style="list-style-type: none"> - Mr Rob McGauran, Urban Designer of MGS Architects - Mr Jim Gard'ner, Conservation Architect of GJM Heritage - Ms Charmaine Dunstan, Traffic Engineer of Traffix Group - Ms Joanna Thompson, Landscape Architect of Thompson Berrill Landscape Design <p>Astrodome Pty Ltd represented by Mr Jeremy Gobbo QC and Ms Jennifer Trehwella of Counsel, instructed by Mr Nick Sutton of Planning & Property Partners, who called expert evidence from:</p> <ul style="list-style-type: none"> - Ms Sophie Jordan, Town Planner of Sophie Jordan Consulting - Mr Michael Barlow, Town Planner of Urbis - Mr Peter Lovell, Heritage Consultant of Lovell Chen Pty Ltd

- Mr Bryce Raworth, Conservation Consultant, Bryce Raworth Conservation Heritage
- Ms Hilary Marshall, Traffic Engineer of Ratio Consultants
- Ms Catherine Heggen, Planning and Urban Design Consultant of Ratio Consultants

Ms Jane Power

Mr Peter and Ms Suzette Carrington

Salta Properties Pty Ltd represented by Mr Nick Tweedie SC and Mr Paul Chiappi of Counsel

Citation

Yarra PSA C223yara [2020] PPV

Date of this Report

23 July 2020

Executive summary

Yarra Planning Scheme Amendment C223yara (the Amendment) seeks to rezone the land at 81-95 Burnley Street and 26 Doonside Street, Richmond to guide the redevelopment of this strategic site in inner Melbourne.

The Amendment seeks to recognise and facilitate a transition in land use and development. It would rezone the land from Industrial 3 Zone to Mixed Use Zone of the Yarra Planning Scheme (Planning Scheme) and apply the Development Plan Overlay Schedule 15 (DPO15) to establish parameters for future use and development applications. The Amendment would also apply the Environmental Audit Overlay to the entirety of the land, recognising its potential contamination and the need for remediation before sensitive uses could arise.

The subject land has consistently been identified in relevant strategic planning work as a strategic redevelopment site for inclusion in the Mixed Use Zone. The land forms part of the Victoria Street East Precinct but was not rezoned to Mixed Use Zone with nearby land as part of Amendment C99 in 2009.

A substantial number of submissions were received from local residents. Key issues included:

- concern about proposed preferred building heights and setbacks in the schedule to the Development Plan Overlay
- impacts on property values and the operation of existing businesses
- amenity impacts including overlooking, overshadowing and building separation
- potential impacts on the two recognised heritage buildings within the site and the adjacent lower rise Yarraberg heritage precinct to the south
- traffic congestion, parking and public transport
- the adequacy of proposed public open space
- the provision of affordable housing
- building materials and design.

In addition, a submission was received from Salta Properties Pty Ltd, the owner of a large number of properties in the relevant precinct including land on the northern side of Doonside Street and the Victoria Gardens Shopping Centre. Salta Properties was concerned that the Amendment would not optimise the redevelopment potential of the site, especially in terms of building height. It also sought protection of shopping centre operations and its capacity to expand in future. Salta Properties sought confirmation that the proposed contribution of 10 percent affordable housing for the subject land within the proposed Development Plan Overlay schedule was a result of agreement between the Proponent and Yarra City Council (Council), rather than viewed as a necessary requirement for all development of this scale.

Council supported the proposed rezoning together with the application of the Development Plan and Environmental Audit Overlays to the land. It submitted that the exhibited Amendment should be supported by the Panel subject to refinement in response to submissions. At a Council meeting, it also resolved to require the Proponent to prepare a Public Open Space report as part of Development Plan documentation to consider opportunities for increased public open space in conjunction with the redevelopment of the subject land.

The Proponent pointed to many aspects of the Amendment that would cumulatively lead to net community benefit and a high level of compliance with planning policy. However, it also

requested refinement to some key elements of the exhibited Amendment as addressed in expert evidence seeking, in summary:

- increased preferred maximum heights for part of the land, especially the north western quadrant
- the capacity for reduced setbacks above or around heritage buildings on the site
- greater flexibility for the location of public open space on the site and its relationship with the proposed pedestrian and cycling link on the land
- overall, a reduction in the level of specificity in the Indicative Framework Plan and a greater reliance on qualitative objectives in the wording of the schedule to the overlay.

DPO15 as drafted would require analysis of cumulative traffic demand and a contribution to road or intersection upgrade works by the Proponent. Independent traffic evidence commissioned by the Proponent for the hearing questioned whether the redevelopment of the site would necessitate signalisation of the Burnley Street and Doonside Street intersection as sought by Council and VicRoads. Notwithstanding, the Proponent confirmed its position that it would not oppose a requirement to contribute to the future signalisation of this intersection, subject to appropriate timing and a fair contribution.

The Panel finds there is strong strategic justification for rezoning the land to Mixed Use Zone. This would facilitate integrated redevelopment including the provision for housing at higher densities as well as opportunities for a substantial commercial component, recognising its location on the edge of a Major Activity Centre.

The Panel also supports the application of the Development Plan Overlay to this site. This tool is important to set parameters for the future use and development of the land, especially through an Indicative Framework Plan, built form guidelines and conditions for future permits to be issued.

A key component of the Development Plan Overlay is the need for a Development Plan to be prepared and approved to the satisfaction of Council as the Responsible Authority. Once the Development Plan is approved, all permit applications must be generally in accordance with it. An important consequence is that there are no statutory rights of public participation once the Development Plan is approved. Therefore, the Panel has given careful consideration to the submissions received together with the content of DPO15, recognising the desirability for certainty as emphasised by Council.

The Panel concludes:

- The rezoning of the land to Mixed Use zone is strategically supported and is consistent with the approach to zoning in the remainder of the Victoria Street East Precinct.
- The Development Plan Overlay is the appropriate Planning Scheme tool to guide the redevelopment of the subject land.
- The application of the Environmental Audit Overlay to the whole property is consistent with relevant Practice Notes having regard to the history of the land, its potential for contamination intended sensitive land uses.
- The Amendment as a whole would facilitate the redevelopment of land with capacity for substantial net community benefit. Key elements include a minimum 9,000 square metres of commercial floor space, substantial provision of new dwellings

including 10 percent affordable housing, the provision of accessible public open space and a wide formalised north-south pedestrian and cyclist network.

- The approach to future built form proposed in the DPO15 is generally sound and strategically justified, subject to refinement of the Indicative Framework Plan including simplification of its graphic depiction to provide increased flexibility for the location and use of buildings (especially tower elements) as part of comprehensive site planning.
- The nomination of taller preferred maximum building heights for the north western part of the site as proposed in evidence for the Proponent is not supported having regard to the physical and policy context of the site. A further concern is the lack of opportunity for genuine public consultation about this important element of the Indicative Framework Plan since this suggestion was raised for the first time within the hearing process rather than during public exhibition.
- In conjunction with the Heritage Overlay and local heritage policy, the DPO15 would provide for the suitable protection, restoration and adaptive re-use of the two heritage buildings on the site. Preferred heights and setbacks recommended by the Panel have also taken into account potential effects on the Yarraberg residential heritage precinct, although the treatment of this interface from an urban design perspective is more central than a heritage response.
- It is inevitable that redevelopment of the land will result in increased traffic flows in the local area. Notwithstanding local sensitivity, it is more appropriate to determine parking rates for future development within future planning permit applications. In terms of network conditions, suitable provision would be made in DPO15 for the management of additional traffic including the potential future signalisation of the Burnley Street and Doonside Street intersection with an associated contribution from the land owner. An acceptable process is outlined for these matters to be addressed at the appropriate time particularly if this redevelopment is the key agent of change.
- Although the redevelopment of the land is likely to impact on views from some neighbours' apartments especially towards the city skyline, these private views are not protected by the Planning Scheme.
- While concerns expressed by neighbours about potential devaluation appear to be genuinely held, private economic considerations are not sufficient to justify a different approach to the Amendment.
- The provision of an area representing 4.5 percent of the landholding for well orientated ground level public open space is supported as consistent with the current provisions of the Planning Scheme. Any increase in the provision of public open space beyond this should be at the initiative of the Proponent, or otherwise as a result of municipal or precinct wide changes to public open space contributions in light of updated strategic work outlining current and anticipated Precinct development.

Recommendations

Based on the reasons in this Report, the Panel recommends that Yarra Planning Scheme Amendment C223yara be adopted as exhibited subject to the following:

- 1. Approve Yarra City Council's preferred version of Schedule 15 to the Development Plan Overlay as amended in Appendix A, subject to the recommendations of this Report.**

- 2. Amend the Indicative Framework Plan in Schedule 15 to the Development Plan Overlay as follows:**
 - a) delete dashed lines capable of indicating building footprints**
 - b) convert references from storeys to metres**
 - c) delete the graphic depiction of a 9 metre separation between buildings**
 - d) specify the height of the heritage building at 26 Doonside Street by reference to its ridge line height through survey**
 - e) adopt the arrow notations pertaining to the spectrum of land use generally as recommended in Ms Heggen's preferred Indicative Framework Plan**
 - f) delete the graphic notation of active frontages**
 - g) make consequential changes based on the recommendations in this Report.**

- 3. Amend Schedule 15 to the Development Plan Overlay to confirm that opportunities for deep soil canopy tree planting should be provided within the new public open space area, free from basement incursion.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to facilitate the use and development of the subject land for a mix of uses including residential and employment (retail and commercial). The Amendment continues a steady shift in many areas of the City of Yarra from former industrial land use to a mixed use future, including the Victoria Street East Precinct within which the land is located.

The Amendment proposes to:

- rezone the land from Industrial 3 Zone to Mixed Use Zone (MUZ)
- apply the Development Plan Overlay Schedule 15 (DPO15) to the land
- apply an Environmental Audit Overlay (EAO) to the land.

Documentation submitted by the Proponent accompanying the Amendment indicated that approximately 500 dwellings and 9,000sqm of employment generating floor space are proposed within a series of building forms.

Council also emphasised its position that the Amendment seeks to ensure community benefit through the redevelopment of the site including through providing guidance as to built form and land use, traffic management, addressing contamination, conserving and restoring heritage assets, providing affordable housing and creating new public open space.

Figure 1 Aerial image of the subject site



Source: Sophie Jordan expert report, Document 30, page 8

The land is bounded by Doonside Street to the north, Burnley Street to the west and Appleton Street to the south. It abuts the recently constructed complex referred to as the Embassy Apartment complex to the east. The land has an area of approximately 1.3 hectares and contains a series of low rise warehouse and other buildings, parking and hard stand areas.

Land north of Doonside Street contains a number of mainly commercial buildings and abuts the Victoria Gardens Shopping Centre. A loading area for the shopping centre supermarket is accessed from Doonside Street through to David Street.

Land flanking Burnley Street has increasingly been redeveloped with residential apartments of a mid rise scale. Other nearby uses include a primary school and church on the western side of Burnley Street.

The two heritage buildings on the land, the Russell Manufacturing Co. (former Repco) building (extending across three site frontages) and the former Repco Offices and Laboratories (fronting Doonside Street) are shown in Figures 2 and 3 below.

Figure 2 Former Repco heritage building



Source: Peter Lovell expert report, Document 32, Page 5

Figure 3 Former Repco Offices and Laboratories heritage building



Source: Page 5, Document 32

1.2 Background

Council resolved to seek authorisation for the Amendment at its Ordinary Council Meeting on 19 December 2017. The Amendment subsequently received conditional authorisation from the Minister for Planning on 19 February 2018. The condition required that a Housing Diversity Report be prepared prior to exhibition to address the 10 percent proposed affordable housing contribution. This report was prepared on behalf of the Proponent in May 2018 and updated in May 2019.

Prior to exhibition, the Proponent also requested changes to the Amendment to accommodate additional commercial space to enable the existing business on the property (Harry the Hirer) to expand its office and retail activities. Changes to draft DPO15 included:

- an increase in minimum gross floor area for employment generating uses to 9,000sqm
- amending the Indicative Framework Plan in the schedule to the Development Plan Overlay to enable flexibility for additional employment generating uses
- including new clauses relating to infrastructure
- amending the provision for affordable housing.

Council resolved to seek re-authorisation from the Minister for Planning at its Meeting on 16 July 2019. Re-authorisation was subsequently provided on 9 August 2019.

1.3 Summary of issues

(i) Planning Authority

Key unresolved issues for Council included:

- preferred maximum heights and setbacks for new buildings having regard to the urban context, amenity and respect for heritage values
- the need for upgrades to road infrastructure and their funding as a consequence of the redevelopment of this land
- the appropriateness of the proposed public open space contribution.

(ii) The Proponent

Key issues for the Proponent included:

- the level of detail in DPO15 and the associated Indicative Framework Plan
- scope to increase certain preferred maximum building heights and reduce certain setbacks
- ensuring an equitable contribution to road upgrades, public open space and public realm upgrades.

(iii) Submitters

Key issues for submitters included, in summary:

- excessive scale of buildings (heights and setbacks) leading to overdevelopment, loss of views, devaluation and impacts on amenity
- impacts on traffic and carparking, including the safety of the road network
- whether heritage assets on the site would be respected in new development
- protecting existing business operations and loading, especially within the Victoria Gardens Shopping Centre
- the adequacy of new public open space on the land and location of new pedestrian and cycling links
- the viability of new commercial tenancies and their potential to compete with existing local tenancies.

1.4 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development as set out in Clause 71.02-3 (Integrated decision making) of the Yarra Planning Scheme (Planning Scheme).

The Panel has considered all written submissions in response to exhibition of the Amendment, observations from site visits and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in this Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in this Report.

This Report addresses the issues under the following headings:

- Planning context and strategic justification
- Proposed Development Plan Overlay
- Other matters raised by Council
- Response to submissions.

2 Planning context and strategic justification

2.1 Planning Policy Framework

The Panel summarises central aspects of the State and Local Planning Policy Framework relevant to the Amendment below, informed by the Explanatory Report and submissions and evidence.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the *Planning and Environment Act 1987* (Act) by providing for the fair, orderly, economic and sustainable use and development of land; securing a pleasant, efficient and safe environment for all Victorians; conserving buildings of heritage value; providing affordable housing and balancing the present and future interests of Victorians.

Clause 11 (Settlement)

The Amendment would:

- provide housing choice, including affordable housing and housing at higher densities beside an activity centre
- encourage the supply of land and the concentration of retail, residential and commercial development in and around an activity centre
- provide convenient access to jobs, services, infrastructure and community facilities and encourage sustainable modes of transport.

Clause 15 (Built form)

The Amendment would:

- create safe, healthy, functional and enjoyable urban environments that contribute to a sense of place and identity
- ensure development responds to its context, contributes to preferred neighbourhood character and facilitates accessibility
- seek high standards of environmental sustainability and promote low energy forms of transport
- encourage development that respects places with identified heritage values and support their adaptive re-use.

Clause 16 (Housing)

The Amendment would:

- increase the supply of housing in existing areas by facilitating higher densities in appropriate locations, including under-utilised urban land with good access to jobs, services and transport
- facilitate high quality affordable housing and broader housing choice.

Clause 18 (Sustainable Transport)

The Amendment would provide increased options and connections to walking, cycling and public transport infrastructure.

Clause 21 (Municipal Strategic Statement)

More specifically, the Amendment would:

- maintain the Vision in Clause 21.03 which identifies the land as part of the broader Victoria Gardens strategic redevelopment area
- support the rezoning of the land to Mixed Use Zone as identified in Figure 21 of Clause 21.08 for the Victoria Street East Precinct.

Clause 22 (Local Planning Policies)

Clause 22.11 – Victoria Street East Precinct Policy is particularly pertinent to this Amendment.

Relevant features of the setting identified in that policy include:

- Established residential neighbourhoods to the south and west of the Precinct and the need for major redevelopment sites to provide an appropriate built form and land use transition and interface with these areas ...
- The role of the precinct as part of the Victoria Street Major Activity Centre and the need for appropriate provision for the development and expansion of amenities and infrastructure of all kinds.

The policy relevantly explains that the principles of the Victoria Street East Precinct, Richmond Urban Design Framework 2005 are intended to guide future development particularly in relation to the treatment of interfaces between new development and established residential neighbourhoods.

The policy seeks new development to contribute to physical and social infrastructure, including public open space and improved connections for public transport, walking and cycling.

Key land use, activity and development opportunities in the policy include:

- To maximise opportunities for new development on former industrial sites and other disused sites while protecting the amenity of the surrounding area and enhancing the landscape character of the River corridor.
- To provide for higher intensity residential development within the Major Activity Centre where this will not be discordant with the built form and amenity of residential areas to the west and south of the Precinct.

Pertinent urban design and built form policies include:

- New development on Burnley [Street] should be designed so as to provide an appropriate transition in scale and massing, with upper level setbacks provided to minimise impacts on the amenity of adjacent lower-rise housing areas.
- Higher built form along Burnley Street that responds to the provisions of the Comprehensive Development Zone applying along the east side of Burnley Street may be supported and the Burnley Street frontage should provide appropriate building articulation, addressing fenestration treatment, materials and colours ...
- Taller building elements may be constructed, provided that an appropriate height transition is provided within the site to minimise impacts on the amenity of the surrounding area including through the overshadowing of public spaces.

2.2 Other relevant planning strategies and policies**(i) Plan Melbourne**

Plan Melbourne 2017-2050 provides strategic directions to guide Melbourne's development to 2050 to ensure it becomes more sustainable, productive and liveable as its population

approaches 8 million. It is accompanied by a separate Implementation Plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven outcomes which set out the aims of the Plan. The outcomes are supported by directions and policies which outline how the outcomes will be achieved. Outcome 2 is particularly relevant to the Amendment in that it seeks to provide housing choice in locations close to jobs and services.

Parties drew the Panel's attention to Directions 2.1, 2.2 and 2.3 and associated policies in the hearing. In summary, these policies seek to facilitate housing in established areas close to existing services, jobs and public transport as well as to strengthen the role of planning in delivering affordable housing.

(ii) Yarra Housing Strategy, September 2018¹

The Housing Strategy establishes a framework for residential growth for the municipality to meet emerging housing needs and seeks to direct housing growth to appropriate locations. The Strategy identifies opportunities for over 13,000 new dwellings.

The subject land is identified in the Housing Strategy for site specific rezoning (reference to Amendment C223) and includes the land in a "high change" area in the Strategic Housing Framework Plan together with land to the north within the Activity Centre, including confined land on the northern side of Victoria Street.

Under 'What type of development is likely in high change areas?' the Strategy explains:²

It is expected that high change areas will support increased residential densities and housing diversity through mixed use, infill and urban renewal apartment development that will establish new character for a site or precinct.

(iii) Yarra Spatial Economic and Employment Strategy, August 2018³

This strategy was developed to assist Council to understand and capitalise on the municipality's economic strengths over the next 10 to 15 years. The Strategy seeks to provide guidance for the management of growth and change in employment and economic activity, recognising employment land within the municipality as a strategic resource.

Relevant strategies for this land include:

- Strategy 1 – Support employment growth in Yarra's Activity Centres
- Strategy 2 – Retain and grow Yarra's major employment precincts
- Strategy 3 – Identify proposed locations for housing growth
- Strategy 6 – Retain Yarra's existing industrial precincts for manufacturing and urban services.

The Strategy explains there is scope to consider a change in the role of industrially zoned land where key industries have ceased or where there is evidence of a genuine lack of demand. Council explained that the Amendment would respond to Strategy 1 by facilitating residential and employment generating uses in the Victoria Street Major Activity Centre.

¹ Adopted by Council on 4 September 2018. Amendment C269 seeks to implement key findings of the Strategy.

² Page 73.

³ Adopted by Council on 4 September 2018.

(iv) Victoria Street Structure Plan 2010⁴

The Structure Plan seeks to guide change within the Victoria Street Major Activity Centre over a 10-15-year timeframe.

The subject land is included in Precinct 11 (Victoria Gardens) and is identified as a 'Substantial Change Area' for more intensive use. More particularly, the land is identified in Sub-Precinct 11a (Doonside Precinct) which is described as 'potential housing mixed with retail and business'.

(v) Victoria Street East Precinct, Richmond Urban Design Framework 2005

This Urban Design Framework is a reference document in Clause 22.11 and makes the following recommendations for the subject land:

- Change to Mixed Use Zone to enable a mix of commercial and high density residential uses. This would assist in creating an appropriate transition between Victoria Gardens and nearby residential areas and would reflect existing commercial uses along Burnley Street.
- New development should maintain the pattern of built form to front and side boundaries at ground level.
- The heritage building at 26 Doonside Street should be protected and reused.
- Preferred heights are provided for industrial and commercial interfaces having regard to views, protection of overshadowing and the like.
- Doonside Street is identified as the preferred major entry into Victoria Gardens and areas to the south to keep traffic away from Victoria Street and residential areas to the south.
- A north-south pedestrian link is identified through the site, continuing through the precinct.

2.3 Planning Scheme provisions

A consistent purpose of relevant zones and overlays is to implement the Municipal Planning Strategy and the Planning Policy Framework.

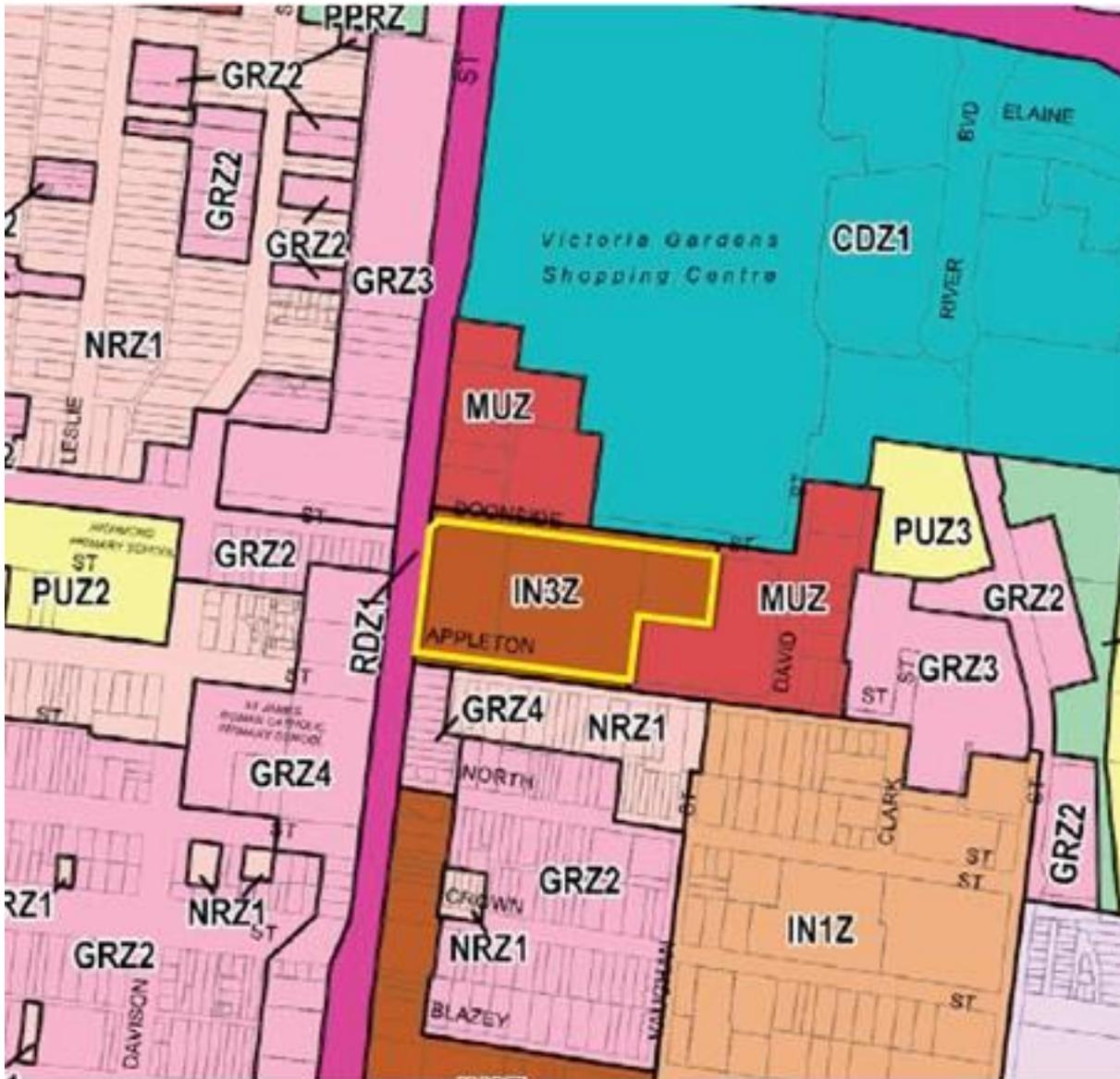
(i) Zones

The subject land is currently in the Industrial 3 Zone recognising its longstanding use for manufacture, warehousing, commercial and service uses.

Surrounding land is in a mix of zoning as depicted in Figure 4. The subject land was originally proposed to be rezoned to Mixed Use Zone as part of Amendment C99 which included land on the northern side of Doonside Street and to the east of the subject land now developed for the Embassy Apartment complex. Amendment C99 also introduced Design and Development Overlay Schedule 9 which applies to the Doonside Precinct. However, the subject land was excluded from that Amendment at the request of the landowner at the time given concerns about potential impacts on business operations sought to be retained. The Victoria Gardens Shopping Centre is included in the Comprehensive Development Zone.

⁴ The Structure Plan was adopted by Council on 20 April 2010, but it is not a Reference or Incorporated document in the Yarra Planning Scheme.

Figure 4 Subject land in context of broader zoning map



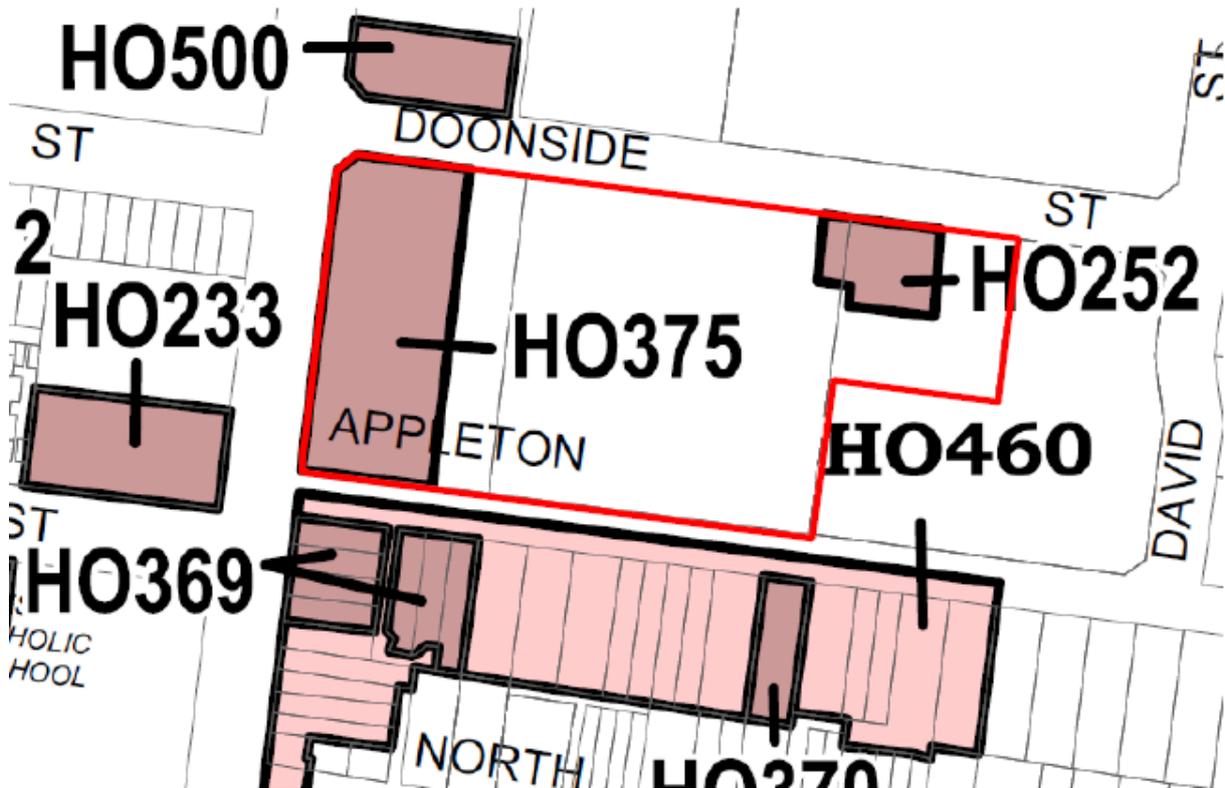
Source: Catherine Heggen expert report, Document 35, page 23

Land along the Burnley Street spine is included in the General Residential Zone (Schedules 3 or 4) while most properties on the south side of Appleton Street are included in the Neighbourhood Residential Zone (Schedule 1).

(ii) Overlays

Parts of the land are subject to the Heritage Overlay (Schedules HO252 and HO375) reflecting the significance of the two extant buildings. Land on the southern side of Appleton Street is also within a Heritage Overlay (Schedule HO460). These are depicted in Figure 5 below.

Figure 5 Relevant Heritage Overlays



Source: Peter Lovell expert report, page 4, Document 32.

The land is also included in Design and Development Overlay (Schedule 2) applying to Main Roads and Boulevards. Its objective is to focus on the creation of appropriate streetscape and neighbourhood character responses. This overlay would persist unchanged by the Amendment.

Design and Development Overlay (Schedule 9) applies to land in the Doonside Precinct, including the Embassy Apartment site and land on the northern side of Doonside Street within the Mixed Use Zone. In summary, that overlay seeks to:

- recognise the transitional role of the precinct; on the edge of an activity centre and abutting low rise residential development
- ensure buildings are of a high standard and respond to the industrial and residential character including the scale of development on the south side of Appleton Street
- improve the public domain and limit adverse impacts on the traffic network
- ensure the continuing ability of nearby businesses to operate, including through the provision of noise attenuation.

Building height and setback requirements seek buildings along key roads to be built to the property frontage to a height of 11 metres, with maximum building heights of 15.5 metres set back above this. Taller buildings should demonstrate a high standard of architectural design and limitations on overshadowing the public and private realm.

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines, August 2018*. That discussion is not repeated here.

Ministerial Direction No. 1 – Potentially Contaminated Land

This Ministerial Direction requires a planning authority preparing a planning scheme amendment to satisfy itself that the environmental conditions of land proposed to be used for a sensitive use or public open space are, or will be, suitable for that use. A sensitive use includes dwellings which would be permissible under the Mixed Use Zone.

Planning Practice Notes

The following Planning Practice Notes (PPNs) are particularly relevant to this Amendment:

- PPN23 in terms of when the Development Plan Overlay would be appropriate
- PPN30 in respect of potentially contaminated land
- PPN60 since it addresses heights and setbacks in activity centres.

2.5 Strategic justification for the Amendment

Key issues include:

- whether it is appropriate to rezone the land to the Mixed Use Zone
- whether the Development Plan Overlay is an appropriate Planning Scheme tool to guide the future use and development of the land
- whether the application of the Environmental Audit Overlay is justified.

2.6 Is it appropriate to rezone the land to the Mixed Use Zone?

(i) Evidence and submissions

Council considered that the Industrial 3 Zone as it applies to this land is “contextually outdated”. It supported the selection of zone as appropriate, especially given its application to surrounding land as part of Amendment C99 and its suitability as an intermediate zone between the Comprehensive Development Zone and lower order residential zoning to the south. Another noted advantage of this zone is that it would enable existing commercial operations on the site to continue as proposed.

Submitters did not oppose the application of the Mixed Use Zone, however a few submitters were concerned about the effects of removing the land from the Industrial Zone given the site’s history and having regard to the potential utility of this land use.

Mr Barlow gave expert planning evidence on behalf of the Proponent. He confirmed that the land is within the key urban renewal area of the Victoria Street East Precinct and that the site is identified as a strategic development site within the Major Activity Centre. He emphasised that the land has attributes enabling the achievement of the vision in Plan Melbourne for a ‘20 minute neighbourhood’ and that this would be facilitated by the rezoning. He pointed to direct and consistent policy support for rezoning the land to Mixed Use Zone which is summarised in Chapters 2.1 and 2.2 above.

Similarly, Ms Jordan who gave expert evidence on behalf of the Proponent recognised the policy intent in Clause 22.11 and elsewhere for this area to undergo substantial change to accommodate high density housing, major retail activity and a range of other commercial and complimentary uses, with the subject land identified for mixed use. She made mention of specific references to the designation of the land in the Structure Plan and Urban Design Framework, with these documents and policies including Clause 21.08-9 acknowledging that rezoning would be required to facilitate this transformation.

In Ms Jordan's opinion, the purposes of the Mixed Use Zone address two key aspirations of the Amendment, namely the delivery of housing at higher densities and facilitating a mix of land use to provide a range of local employment opportunities. She regarded the Mixed Use Zone as particularly suitable for this land since it is:

... without a default height control, without any density or garden area requirement and yet remains sensitive to matters of neighbourhood character and amenity.

(ii) Discussion

The starting point is that the current industrial zoning allows for an important but limited range of land use. The question is whether this remains appropriate for the future of this site. For example, accommodation in any form (including dwellings) would be prohibited.

The Panel is not persuaded that it would be appropriate having regard to either policy or the site's current and emerging setting to leave the land within the Industrial 3 Zone as suggested by some submitters. The current zone does not provide opportunities for housing and other complementary land use consistent with the activity centre. It would also anticipate a variety of industrial activities that may not be consistent with amenity expectations in what is now a mixed use setting adjacent to residential areas. By contrast, the Mixed Use Zone is a higher order, more flexible form of residential zone.

Current housing projections for this inner area of Melbourne foresee notably increased demand, with key issues to ensure a suitable pipeline of supply while facilitating housing diversity and affordability to meet community needs. This was demonstrated in evidence by Mr Barlow, however he acknowledged that COVID-19 was likely to impact on these projections – at least in the short term.

The Panel accepts Mr Barlow's opinion that it is necessary to plan for significant future population growth in areas such as these well connected to services and facilities. This is reflected by the Yarra Housing Strategy, especially noting the majority of new housing in the municipality is provided in or adjacent to new activity centres, with an increase in dwelling densities in these areas.⁵

The Panel accepts the evidence on behalf of the Proponent and submissions by Council that there is clear strategic direction supporting the rezoning of this land to Mixed Use Zone. The Mixed Use Zone is particularly appropriate where the land is planned for more intensive and diverse residential development and the site is well located in relation to activity centres, employment and public transport. Another important purpose recognised by the Mixed Use

⁵ Referencing the statistics in Mr Barlow's report at page 13 including DELWP data indicating that some 87% of new residential development in the municipality is in and around activity centres, amongst other statistics referred to in expert witness reports.

Zone is the need to balance future development with respect for neighbourhood character, either current or preferred.

Planning policy emphasises the important role of activity centres having regard to economic objectives including employment. Plan Melbourne supports the more intensive development of activity centres and surrounding residential land use having regard to their capacity to effectively provide a range of consolidated services and facilities for communities. In this instance, the Mixed Use Zone also provides opportunities for the land to transition in both built form and land use terms between the core of the Activity Centre which is focused around the Victoria Gardens Shopping Centre and Victoria Street, and more conventional lower scale residential areas off Burnley Street. For example, the Mixed Use Zone would provide greater diversification of commercial land use reflecting a more modern economy compared to the current zoning while still supporting certain types of industrial land use as appropriate.

(iii) Conclusion

The Panel concludes:

- The proposal to rezone the land to the Mixed Use Zone is strongly supported as consistent with planning policy, relevant strategic documents and surrounding zoning and land use. It would facilitate residential development at higher densities as well as making provision for a wide range of commercial, retail and industrial land use within this Activity Centre context.

2.7 Is the Development Plan Overlay an appropriate planning scheme tool?

(i) Relevant Practice Note

Practice Note 23 explains the advantages and constraints of the Development Plan Overlay. These include a requirement for the approval of a development plan before most permit applications can be granted. It would provide certainty about the parameters for future use and development and could include conditions to implement the development plan.

A notable feature of the Development Plan Overlay is that it removes conventional notice requirements and third party review rights for permit applications that are generally in accordance with an approved development plan.

(ii) Evidence and submissions

Mr Barlow gave evidence that at 1.3 hectares, the land would provide greater design flexibility than other more constrained sites within the precinct. He was of the opinion that it is important to allow the site to be developed optimally given rising demand for housing and the limited number of large-scale development sites in the municipality. He considered this could be achieved by the application of the Development Plan Overlay.

Ms Jordan also considered that the Development Plan Overlay was the most appropriate planning scheme tool to guide a coordinated mixed use development across the site, subject to refinement of its content.

Council emphasised that the Development Plan Overlay is the tool applied by it for site planning for strategic redevelopment sites. It pointed to other examples such as the former Amcor site (DPO11), Trenerry Crescent, Abbotsford (DPO14) and Former Fitzroy Gasworks

(DPO16) where a similar approach has been taken. While some built form objectives could be achieved through the application of a Design and Development Overlay (as has been the approach for the Doonside Precinct), Council regarded this planning scheme tool as more suitable to guide the development of land within activity centres more generally, especially where the key issue was built form. It considered that a central aspect of the Development Plan Overlay is the specification of the form and conditions for the future use, as well as development of the land.

Council also reinforced the need for certainty when formulating the content of the schedule to the Development Plan Overlay given limited rights of public participation in further approvals.

(iii) Discussion

In the Panel's opinion, the Development Plan Overlay is eminently suitable to guide the redevelopment of this land.

By its nature, this overlay strives for integrated development through the formulation of a development plan that can address key site objectives, built form, land use and community outcomes. It can also address other important aspects of site planning such as a response to heritage values and management of the traffic and movement network, which are core issues for this setting. Another particularly relevant matter is the ability to anticipate and manage the staging of redevelopment.

The ability to include an Indicative Framework Plan within this overlay is important to provide guidance to the developer and community as to what may be an acceptable design response. Another important benefit is that it documents expectations for potential use and development of the land with the benefit of community input.

At the same time, the process anticipated under the Development Plan Overlay provides sufficient scope for further refinement of actual proposals for the site as they are formulated. This is facilitated by the approval of a development plan and the issuing of permits generally in accordance with it.

(iv) Conclusion

The Panel concludes:

- It is appropriate to apply the Development Plan Overlay to underpin the integrated redevelopment of the subject land.

2.8 Is the application of the Environmental Audit Overlay justified?

(i) Relevant legislative provisions, policies and guidelines

Section 12 of the Act requires a planning authority to:

... take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment.

Clause 13 of the State Planning Policy Framework seeks to ensure potentially contaminated land is suitable for its intended future use.

Council submitted the Amendment responds to these provisions by applying the Environmental Audit Overlay.

Ministerial Direction No. 1 provides for the requirement for an environmental audit to be included in a planning scheme amendment when justified. This can be done by applying the Environmental Audit Overlay. This mechanism would in effect defer the requirements for an environmental audit until the site is to be developed for a sensitive use.

A key purpose of the Environmental Audit Overlay is:

To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

(ii) Evidence and submissions

The land has a long history of industrial use, including for car parts manufacture and as a laboratory.

The Amendment was accompanied by an Environmental Site Assessment Report prepared by Charter Keck Cramer on behalf of the Proponent.⁶ This assessment focused on the title area and included a preliminary site investigation which concluded that key potential risks were the importation of fill, metal and petroleum hydrocarbon contamination as well as PCB contamination possibly associated with an electrical substation in Appleton Street. The report noted four sites within 150 metres of this land had previously been issued with a Statement or Certificate of Environmental Audit.

The Environmental Site Assessment Report also undertook a detailed site investigation which included soil assessment. This found a number of contaminants above safe levels which would require removal or capping and site remediation to enable sensitive uses to be established.

On the basis of this report, the Proponent was prepared to commit to an environmental audit in due course.

(iii) Discussion

The Panel considers there is sufficient evidence of contamination of the land above safe ecological and human health levels to warrant an environmental audit.

The use of the Environmental Audit Overlay is a targeted tool that will facilitate the appropriate management of the land before any sensitive uses could be introduced.

In terms of timing, it is reasonable to defer the requirement for full environmental assessment and remediation to before buildings and works start. This would enable the detailed development and land use vision for the land to be progressed side by side through the Development Plan Overlay.

(iv) Conclusion

The Panel concludes:

- The Amendment appropriately seeks to apply the Environmental Overlay to the entirety of the land.

⁶ Dated 30 May 2016, Document 12.

3 Proposed Development Plan Overlay

3.1 Building heights

(i) The issues

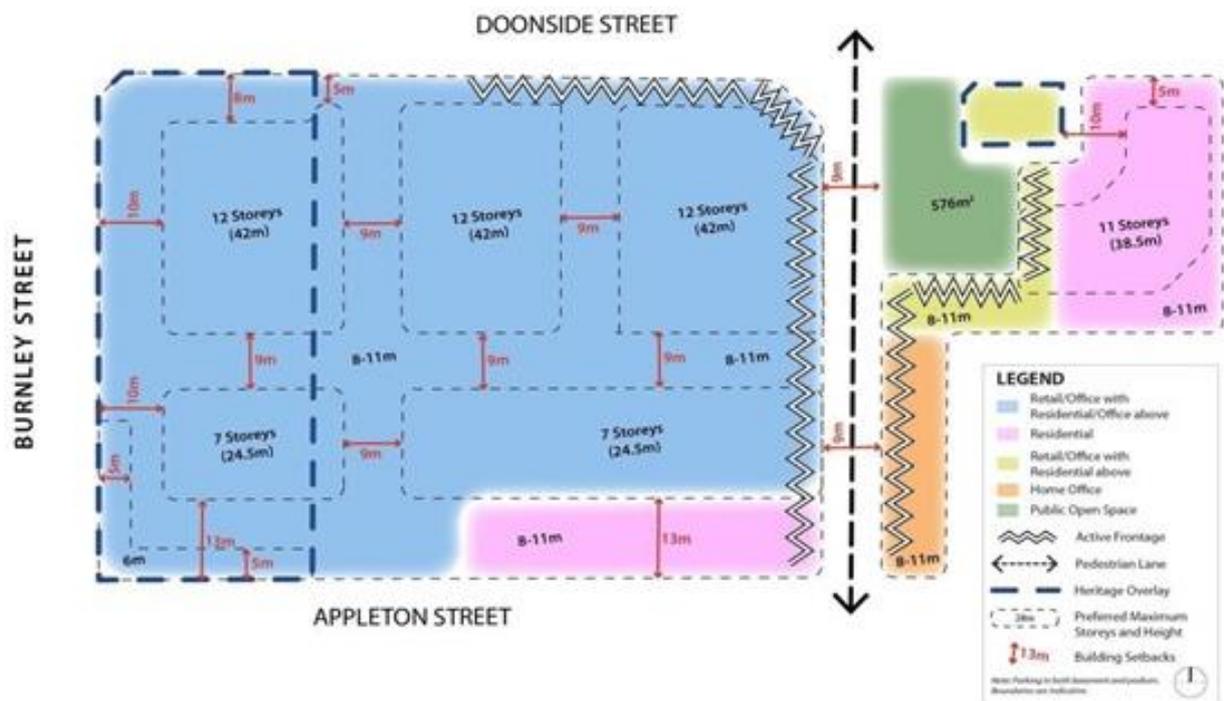
Key issues are:

- has draft DPO15 provided for appropriate preferred maximum building heights across the site?
- is the increase in building height for parts of the land as proposed in evidence for the Proponent supported?

(ii) Evidence and submissions

Council supported the composition of preferred maximum building heights as outlined in the Indicative Framework Plan (IFP) shown in Figure 6 subject to refinement in its preferred Amendment documentation.⁷ Key considerations included the existing scale of mixed built form, strong strategic support for increased built form with a high level of change, recent approvals and the need for a transition in building heights from north to south. Other important factors influencing the appropriateness of these heights for Council were future residential amenity, heritage considerations, amenity of public open space and neighbouring properties.

Figure 6 Exhibited Indicative Framework Plan in Schedule 15 to Design and Development Overlay



Source: Exhibited Amendment documentation

Main aspects of the exhibited IFP include:

⁷ Document 46.

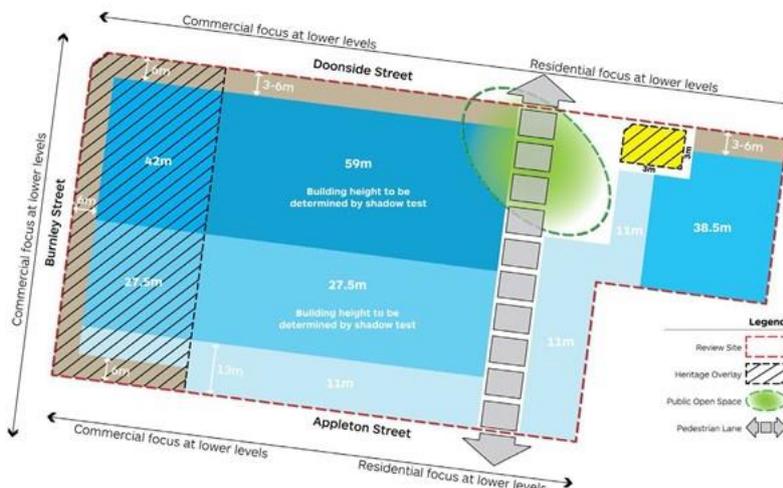
- podium heights of 8-11 metres
- zones of preferred maximum building heights indicated within dashed lines with 9 metre separations
- preferred maximum building heights of 42 metres to the north sections of the site
- preferred maximum building heights of 24.5 metres to the southern sections of the site
- a range of setbacks for buildings above podium level.

Council supported these heights as reflecting the emerging development context by reference to a table of ten recent development approvals. The heights of these examples ranged from 3-13 storeys with the tallest being 13 storeys (38.85 metres) at the Embassy Apartment complex.⁸ The ten examples were within the Victoria Street Structure Plan (2010) in designated Activity Centres in Precinct 9 (Victoria Street North/Yarra River), Precinct 10 (West Burnley Street) and Precinct 11 (Victoria Gardens). The subject land is located within Precinct 11.

Mr McGauran gave expert urban design evidence for Council. In his evidence he also referenced these recent examples and mapped them relative to the subject land. He made specific reference to the adjacent Embassy Apartment complex.

When giving evidence, Mr McGauran was asked to respond to the evidence of the Proponent's planning and urban design expert, Ms Heggen, including her proposal that the preferred maximum height of buildings in the northern section of the subject site be increased from 42 metres to 59 metres.

Figure 7 Suggested alternative Indicative Framework Plan



Source: Catherine Heggen expert evidence, Document 35, page 12

The alternative Indicative Framework Plan as proposed by Ms Heggen as part of her evidence differed from the exhibited IFP in the following key respects:

- increase in the preferred maximum height from 42 metres to 59 metres in the northern part of the land
- increase in the preferred maximum height from 24.5 metres to 27.5 metres in the southern part of the land

⁸ That development was approved by Council with conditions amended by the Victorian Civil and Administrative Tribunal in *The Zig Inge Group Pty Ltd v Yarra City Council* [2012] VCAT 1416.

- reduced setbacks to building forms above the podium
- changed podium heights from a range of 8-11 metres to a consistent 11 metres
- deletion of dashed lines and 9 metre separation for indicative building (tower) locations
- more flexible indication of proposed location for pedestrian lane and public open space.

In addition to concerns about the substance of these changes, Council submitted that the Panel should give limited weight to Ms Heggen's suggestions since they were not made in response to submissions (the main purpose of a Panel being to consider submissions) and her preferred version of the IFP had not been exhibited for public comment. This was considered a significant shortcoming considering the implications for future permit applications which would not be subject to third party notice or review rights. In this context, Council submitted that the certainty of the exhibited documentation should be preferred.

Mr McGauran did not support an increase in the preferred maximum building height. He referred to recent planning scheme amendments and development approvals within a broader context in the City of Yarra that had either preferred maximum heights, mandated maximum heights or approved heights below 42 metres. He also discussed two examples of developments that are substantially higher than 42 metres. These were 2-16 Northumberland Street, Collingwood (Aesop Building) with a maximum height of 67 metres and the Yorkshire Brewery development with a maximum height of 57 metres. Mr McGauran noted that Northumberland Street was an office building within a Commercial Zone and had a 23-metre setback from the main thoroughfare and that the highest point on the Yorkshire Brewery development was set back 13 metres from the street.

There were numerous submissions made by private individuals in response to the exhibited Amendment. Various issues were raised about the heights illustrated in the IFP. These included the scale being too tall for the residential context especially to the south and the Burnley Street context to the west, loss of views from adjoining developments, overshadowing of Appleton Street and adjoining developments to the east.

Submitters varied in their approach to what would be acceptable preferred maximum building heights for this land. Some would support two storeys lower than exhibited, while others sought a substantial reduction. Ms Jane Power and Mr and Ms Carrington, submitters appearing at the hearing, emphasised that even though taller buildings are emerging in the precinct (such as the Embassy Apartment complex), upper levels of these buildings are confined and well set back. They responded that there are no examples of buildings in the area of comparable heights to those proposed by Ms Heggen.

In support of increasing maximum preferred heights as suggested, Ms Heggen referred in her evidence to recent developments and approvals within the City of Yarra. These also included 2-16 Northumberland Street and the Yorkshire Brewery site. Ms Heggen also referred to the development on the 'Nylex' (Caydon development) site in Cremorne with maximum heights of approximately 50 metres.

Ms Heggen submitted shadow diagrams at the equinox depicting shade cast from building forms modelled on her proposed IFP, including the additional height at 59 metres. She contended that acceptable shading outcomes should be a key consideration when determining that the heights outlined in her alternative IFP were appropriate.

The Proponent also submitted a list of 25 developments (including approvals and planning scheme amendments between the years 2015 and 2020) within the broader boundaries of the City of Yarra.⁹ Of these examples, five development sites are listed as having maximum heights over 12 storeys.¹⁰

Ms Heggen's evidence also recommended that the preferred maximum height of the building form above the podium on the southern section of the site be increased from 24.5 metres to 27.5 metres. This was modelled in her evidence to visually obscure part of the higher 59 metre forms proposed by her for the northern section of the site.

Mr Barlow supported increased heights in line with Ms Heggen's proposed IFP based on the imperative to optimise the development of the land and to maximise its yield based on the need to meet rising housing demand in the municipality.¹¹ Mr Barlow further stated that precedent had played a role in determining the heights in the exhibited IFP, although existing scale in a location is only one input. He also considered that the size of the land, its interface with the residential areas to the south, overshadowing impacts, integration with heritage fabric and broader urban design principles were all relevant matters in determining optimum development scale.¹²

Salta Properties submitted it was appropriate for the Panel to support the taller building heights proposed by Ms Heggen in preference to those exhibited, since they would more suitably represent the site's potential as a significant redevelopment site within the Activity Centre context.

Mr Gardner provided expert heritage evidence for the Council. He supported the preferred maximum heights of 24.5 to 42 metres in the exhibited IFP, which he considered would be an acceptable response to the land's heritage values subject to appropriate setbacks and design.

Mr Raworth and Mr Lovell both provided expert evidence on heritage matters on behalf of the Proponent. Their advice was that there would be no additional impact on the heritage values of the subject land if the preferred maximum heights were increased as proposed by Ms Heggen.¹³

Ms Jordan supported the increase in heights proposed by Ms Heggen *"if the primary purpose or advantage of nominating preferred heights on the Plan is to set the limit within which overshadowing to the lower scale residential properties to the south does not occur (between 10am and 2pm at the equinox)"*.¹⁴

(iii) Discussion

It is critical for the Amendment to provide for suitable preferred maximum building heights as a guide to acceptable future built form. This issue is controversial because it has the greatest potential for visual impact and is a significant contributor to emerging precinct character.

⁹ Referred to in Document 77.

¹⁰ These are the 'Nylex' site - (15 storeys), the 'Amcor' site in Alphington (17 storeys), 247-259 Johnston Street, Abbotsford (13 storeys), 2-16 Northumberland Street, Collingwood (13 storeys) and 61-71 Wellington Street, Collingwood (14 storeys).

¹¹ Referred to in Document 31 paragraphs 30-35.

¹² Referred to in Document 31 paragraphs 116 and 118.

¹³ Pages 51 and 21 of their evidence reports.

¹⁴ Referenced in Document 30, page 96.

Both the exhibited IFP and Ms Heggen's alternative IFP propose an assembly of heights with taller built forms to the north and mid-scale forms to the south, all set back above a lower (generally two to three storey) podium. The exhibited IFP relies more closely on building heights for this land that are within the range of those within the existing and emerging setting. By comparison, Ms Heggen's proposal would rise above these towards the corner of Burnley and Doonside Streets.

The outcome of both these proposals is the positioning of lower built form at the southern edge of the subject land, stepping down from higher built form to the north. This would address the interface with the fine-grain residential character of the heritage area south of Appleton Street. The conceptual layout of both proposals seeks a gradation of heights from north to south that reflects the more robust nature of the Activity Centre to the pedestrian scale of Appleton Street. The built forms above the podium would have a range of setbacks that reflect the heritage fabric on the site as well as respecting heritage areas to the south.

The Panel appreciates that it is inherent in the role of an expert witness that they bring an independent mind to the evaluation of the Amendment. However, the Panel supports Council's concerns that people notified of the Amendment may be denied natural justice if the Amendment was changed to reflect *taller* preferred maximum building heights arising for the first time in evidence for the Panel hearing. Building height was a core concern raised in submissions and is a key input to the redevelopment of the land as a whole. While this deficiency could potentially be addressed through re-exhibition, this was not proposed by any party to the current Amendment.

Beyond this, the key question going to substance is whether the physical and policy setting would reasonably justify an increase in the preferred maximum height of buildings as proposed by Ms Heggen.

The Proponent and experts called by it emphasised the paramountcy of the strive to optimise yield, given increasing demand for housing in the City of Yarra and the maximisation of the few strategic redevelopment sites. A significant checkpoint for acceptable increased height was the need to restrict overshadowing to properties on the south side of Appleton Street and the footpath on the western side of Burnley Street.

The Panel accepts that good urban design involves balancing the need to achieve optimum development potential with appropriate amenity protections and consideration of the contextual impacts of scale on the precinct.

Burnley Street is a main thoroughfare and provides a prominent frontage to the subject land. Recent developments and approvals along Burnley Street range in height. Between the subject land and Victoria Street to the north, recent and approved developments in the General Residential Zone have a predominant height of 7 storeys. North of Victoria Street, buildings rise to 10 and 11 storeys. As mentioned, developments to the east of the subject land within the Mixed Use Zone have been constructed to 11 and 13 storeys.¹⁵

An important policy direction for this precinct is to facilitate a transition from the scope for taller, more robust building forms in and around the Victoria Gardens Shopping Centre to the more conventional residential areas beyond. The Panel considers that the emerging context in the vicinity of the subject site (which includes many recent approvals that are consistent

¹⁵ This compares with the preference for buildings of a maximum 15.5 metres in DD09 applying to the Mixed Use Zone.

with this) should be given substantive weight in assessing preferred maximum heights for the Amendment.

Current and emerging scale of developments within the Victoria Street East Precinct indicate that the scale of preferred maximum heights in the exhibited IFP would be appropriate for the subject site land to respond to building heights of 7 storeys to the west and 11-13 storeys to the east, but to potentially step up towards the corner of Burnley Street and Doonside Street as a suitable transition to the core of the Activity Centre.¹⁶ The Panel is not otherwise persuaded that the features of the site including its size or location justify a notable increase in building height compared with surrounding development.

It is also significant that DPO15 provides for a relatively uniform two to three storey podium height for buildings to provide a 'human scale' to site frontages, with setbacks of built form above to reduce visual impact on streetscapes and private properties. For this reason, the Panel is not persuaded that a more qualitative assessment of podium height be provided by reference to overshadowing tests as suggested by Mr Barlow. The Panel prefers the 8-11 metre podium height as exhibited rather than a uniform preferred podium height of 11 metres as suggested by Ms Heggen, as it enables site specific responses while still delivering a relatively consistent street wall scale.

The preferred maximum height of 42 metres in the proposed Amendment would be at the upper end when compared with recent developments and approvals. Examples of higher developments in precincts distant from the subject site while still within the City of Yarra are outcomes of differing local contexts, development site conditions and planning scheme provisions. As such, these are not considered to carry sufficient weight to support a greater maximum height than that in the exhibited Amendment.

The use of shadow diagrams to assess the impact of height and configuration of proposals for the subject land is a valid tool but should not be given primacy over contextual analysis. The Panel was not persuaded that a lack of additional shadowing impact of taller buildings is sufficient justification to change the maximum preferred height in the exhibited Amendment having regard to the full range of urban design considerations.

Another consideration confirming the acceptability of preferred building heights (and setbacks) is that the Panel accepts that built form should not overshadow the footpath on the west side of Burnley Street from 11.00am on the equinox as included in the Council's preferred Amendment, and was not convinced by Mr McGauran's proposition that there should be no overshadowing from 10.00am onward instead of 11.00am. This is addressed further in chapter 3.4.

The proposed change to the Amendment to increase the mid-level component of the IFP from 24.5 to 27.5 metres (on the south western side) as outlined by Ms Heggen should be seen in conjunction with the potential for taller buildings on the north western and central portion of the site. An increase in height for the southern part of the site would have a greater visual impact from Appleton Street and the residences on the southern side of the street. There was no substantive case proposed to support this increase in building height in isolation from proposed higher sections to the north.

¹⁶ It appears that the Incorporated Plan for the Victoria Gardens Activity Centre (Victoria Gardens - Building Envelope and Precinct Plan and Precinct 3 Plan – Warehouse Area) includes a "sensitive buffer area" opposite the subject land generally opposite 26 Doonside Street and the area beyond appears to have a maximum height of RL 31.

Another important consideration is that the Amendment proposes a discretionary control. The preferred maximum heights outlined as the basis for the Development Plan would not necessarily preclude detailed planning permit applications for development with elements that exceed preferred maximums. These would need to be justified on the basis of consistency with precinct built form outcomes, a high standard of design and limited on and off-site impacts.

(iv) Conclusions

The Panel concludes:

- The preferred maximum building heights in the exhibited Amendment are supported.
- There is inadequate justification for taller preferred maximum building heights in the schedule to the Development Plan Overlay having regard to the scale of development in this part of the precinct and the role of this land, especially considering that these building heights are discretionary.

3.2 Building setbacks

(i) The issues

Key issues are:

- have appropriate minimum preferred building setbacks been provided in DPO15 to respond to all relevant site considerations?
- is there scope to support reduced building setbacks in some instances as suggested by witnesses?

(ii) Evidence and submissions

The exhibited Amendment provides a range of minimum setbacks from street frontages to upper levels above the podium. It also seeks a separation from the windows and balconies of the Embassy Apartment complex to the east and south.

Council explained that the preferred minimum setbacks respond to urban conditions including:

- the integrity of the heritage fabric on the subject land
- the residential area to the south
- amenity of adjoining developments including those to the east and south.

Council submitted that the upper level setbacks are intended to mitigate the visual impact of the built form. It considered the 10 metre preferred setback from Burnley Street and the 13 metre preferred setback from Appleton Street would suitably ameliorate the visual impact of taller building forms when viewed from surrounding areas by reference to relevant viewline diagrams included in the Amendment documentation.¹⁷ By contrast, while buildings constructed along Burnley Street are generally lower than proposed for this land, Council pointed out that they do not generally provide setbacks to upper levels (aside from balconies and other fenestration).

¹⁷ Council submission, Document 45, paragraphs 23-25.

Mr McGauran addressed shadow diagrams based on preferred built forms and setbacks in the exhibited IFP. These indicated that the minimum setbacks in conjunction with the preferred maximum heights would not cast shadow onto the properties to the south of Appleton Street between the hours of 10.00am and 2.00pm (it would reach roughly the middle of the road), nor would they overshadow the western footpath of Burnley Street between the hours of 11.00am and 2.00pm at the equinox.

Mr McGauran went further to recommend an added requirement for built form and setbacks to prohibit shading of the Burnley Street western footpath from 10.00am at the equinox (rather than 11am in the exhibited Amendment). This was intended to improve the public amenity of the footpath earlier in the day. This recommendation was not supported by Council in its ultimately preferred form of the Amendment.¹⁸

Ms Heggen on behalf of the Proponent considered that the setbacks above podium should be reduced compared with the exhibited IFP, for:

- Burnley Street (10 metres proposed) reduced to 6 metres
- Doonside Street (8 to 6 metres proposed) reduced to 5 metres in some locations and to 3-6 metres in others
- no change to 13 metre setback proposed to Appleton Street.

The exhibited Built Form Guidelines also included a minimum 9 metre spacing between the upper level of buildings within the site. This separation was also graphically depicted in the IFP. Ms Heggen and Ms Jordan proposed that these setbacks be deleted from the IFP since they would create unintentional expectations about the number and footprint of buildings. Mr McGauran agreed that setbacks at upper levels between buildings on the land could be deleted from the IFP so long as the substance of this was replicated in text within the schedule.

For the most part, submitters' concerns about proposed setbacks related to overall building scale and presentation in conjunction with preferred maximum building heights. Some submitters sought additional setbacks to protect heritage buildings.

A key issue for heritage experts was the appropriateness of the proposed minimum setbacks from Burnley Street, Doonside Street and Appleton Street facades of the corner heritage building. Mr Gard'ner considered that the setbacks outlined in the exhibited IFP were appropriate and did not support Ms Heggen's reduced setbacks. Mr Raworth and Mr Lovell did not support Ms Heggen's reduced setbacks to Doonside Street but considered that the 10 metre setback from Burnley Street could be reduced to 8 metres without having detrimental impacts on heritage values.

The exhibited Amendment also proposes a setback of 10 metres from the retained heritage building (former laboratory) at 26 Doonside Street and taller built form to the east and south. Ms Heggen proposed a reduction of this setback to 3 metres. The issue of the relationship of the existing heritage building to future development is discussed further in Chapter 3.3 of this Report.

Some submitters also advocated for more protective setbacks to protect the amenity of the Embassy Apartment complex. The exhibited Amendment seeks a minimum 9 metre setback from the balconies and windows of the Embassy Apartment complex to the east and south. Council and Mr McGauran supported this setback on the understanding that apartment

¹⁸ Document 79.

developments of 5 storeys or more would be subject to Clause 58 provisions of the Planning Scheme regarding amenity. This approach was generally supported by the Proponent, although together with its expert witness Ms Jordan, it sought greater flexibility subject to the actual interface to be created.

(iii) Discussion

In general, the Panel agrees with Council's response to submissions that the exhibited preferred setbacks do not need to be increased. The combination of preferred maximum heights and setbacks in DPO15 reflect a reasonable approach to the development potential of the site while protecting the amenity of sensitive areas to the south.

While many existing approvals along Burnley Street do not provide meaningful upper level setbacks, in this instance, there are heritage and other imperatives for a substantial setback from the existing streetscape which extends to three property boundaries and wraps around the corner of each.

The setback from Burnley Street above the heritage fabric needs to be of a scale to maintain priority of the lower existing streetscape and to create sufficient visual separation to levels above.

In an urban design sense, sightlines within the public realm along Burnley Street (including oblique views from the north and south) should present a relationship between the lower street form and the higher forms behind that would enable the existing streetscape to maintain its urban presence and avoid dominating the lower forms of existing development. This would be achieved by a stepping back of higher forms irrespective of the heritage value of the existing building.

The Panel is not persuaded that a lesser setback than 8 metres, such as a 6 metre setback proposed by Ms Heggen, would be sufficient to retain the intended relationship between street and tower forms, especially for a building of a maximum preferred height of 42 metres as proposed.

Heritage evidence on behalf of the Proponent supported a reduction in setbacks to Burnley Street above existing heritage buildings (from 10 metres as exhibited) to 8 metres without detrimental impact on the heritage value of the retained fabric. While heritage issues are discussed in the following chapter there is a question as to whether a reduction of the setback to 8 metres would be detrimental to the urban condition of the Burnley Street frontage.

An 8 metre setback for upper levels has been proposed in the IFP for a section of Doonside Street for the length of the heritage overlay that covers the existing building. Doonside is a lower order street compared to Burnley Street and has a different context to the north. Notwithstanding, due to the exposed corner condition at the intersection, there is justification for some continuity of setbacks. In this case, an 8 metre setback for Doonside could suitably be matched with an 8 metre setback along Burnley Street without unreasonable streetscape impacts.

Another important consideration guiding the extent of setbacks is the need for the south western corner of the land to respond to the reduced scale of residential built form within Appleton Street as well as the taller built forms along Burnley Street. With the lower built forms and larger setbacks to Appleton Street, an 8 metre setback from Burnley Street would likewise be appropriate for this part of the site.

The Panel further agrees that the setback of upper levels from Appleton Street should be 13 metres as per the exhibited Amendment given the low scale of the residential area to the south. Viewline diagrams prepared on behalf of the Proponent demonstrate that a parapet height of between 8-11 metres would suitably curtail views of upper levels from close range. Combined with a 13 metre setback of built form above this, it would achieve a presentation generally comparable to the Embassy Apartments where upper levels are far less prominent in viewlines from direct vantage points in Appleton Street.

The treatment of spacing between the heritage building at 26 Doonside Street and taller new built form on the subject land is discussed in Chapter 3.3.

The Panel also supports a setback of 5 metres for the section of Doonside Street east of the heritage overlay as it would reflect the secondary streetscape character beyond the corner condition connection with Burnley Street. It would also be in keeping with the existing robust and envisaged intense development context to the north.

The Panel affirms the designation of a minimum 9 metre separation between future development on the site and the balconies and windows to the existing developments to the east and south. This is consistent with Planning Scheme expectations for reasonable levels of privacy and spacing. Any greater mandated separation would provide an unreasonable limitation on building forms and yields for the land.

That said, the Panel recognises the Proponent's concern about the depiction of the dotted 9 metre building separation zones in the IFP since it would appear to suggest building (or tower) placement.

The assembly of buildings on this site and the relationship between them will be critical to the overall success of the redevelopment scheme. The Panel supports evidence from witnesses such as Mr McGauran that it would be desirable for the land to host a 'campus of buildings', at the same time as avoiding large 'monolithic buildings'.

In reality, it is far more desirable for the placement of buildings to be the subject of further integrated consideration through the process of preparing a Development Plan for approval under the schedule and planning permit applications under it. At this stage, the Panel regards the exhibited 9 metre preferred separation between building forms above the podium as sufficient to indicate these intentions, while not unnecessarily or pre-emptively constraining the location of taller building elements. Consequently, it would be preferable not to show this separation graphically in the IFP.

(iv) Conclusions

The Panel concludes:

- It is appropriate to reduce setbacks proposed for upper level built form along the Burnley Street frontage from 10 metres as exhibited to 8 metres.
- Other prescribed setbacks for upper level built form are supported as contained within the exhibited Amendment.
- There is justification to remove the dashed lines indicating potential upper level building forms from the IFP while retaining text seeking 9 metre separation between building forms above podium.

3.3 Response to heritage values

(i) The issues

Key issues are:

- does DPO15 in combination with the Heritage Overlay and relevant policy provide appropriate guidance for the adaptive re-use and conservation of the two heritage places on the land, as well as providing suitable parameters for adjacent built form?
- has the Amendment had appropriate regard for the need to respect the adjacent heritage precinct to the south?

(ii) Evidence and submissions

The land hosts two existing buildings protected by individual Heritage Overlay schedules. The original Russell Manufacturing Co. (RepcO) building extends along the Burnley Street frontage of the site and is occupied by Harry the Hirer (HO375) while the former Repco Offices and Laboratories building is located at 26 Doonside Street (HO252). Both are good examples of the Moderne style, dating from the 1930s and 1940s although the presentation of the Repco building façade presentation is negatively affected by paintwork over its bi-chromatic brickwork which is intended to be restored as part of the redevelopment. DPO15 seeks to incorporate the retention and re-use of significant elements of the Repco buildings to the three street frontages within the overlay and the retention of the double storey building at 26 Doonside Street.

The subject land is north of heritage overlays that cover residential properties south of Appleton Street (HO460, HO370, HO369).

Submissions to the Amendment raised concerns that the industrial heritage of the site and its context would be detrimentally impacted by new built forms and that the retention of the street frontages of the Repco building would equate to facadism.

Mr Gard'ner supported the exhibited Amendment although his original preference was for a greater setback to Burnley Street. He also supported the nomination of a two storey height limit in the IFP for the heritage building at 26 Doonside Street to preclude building above or cantilevering over. Mr Gard'ner also supported the 10 metre separation above podium for built forms east and south of this heritage property.

Mr Gard'ner affirmed the importance of retaining a three-dimensional perception of the Repco building as outlined in the Built Form Guidelines in the exhibited Amendment. This guideline would require building setbacks above the facades of 81-95 Burnley Street (RepcO) to ensure the heritage building can be understood as having a three-dimensional form. On this basis, he and Mr Lovell for the Proponent were satisfied that the setbacks and heights in the Amendment would enable the key heritage values of the Repco building to be retained and that the Built Form Guidelines within the Amendment would avoid facadism.¹⁹

Mr Gard'ner considered that the two to three storey podium with 13 metre setback of upper forms and a preferred maximum height of the mid site upper level form of 24.5 metres as described in the exhibited Amendment would provide a suitable transition to the single storey Victorian and Edwardian dwellings on the south of Appleton Street.

¹⁹ Document 27.

Mr Raworth had provided heritage expert reports to Council in 2016 and 2017 on behalf of the Proponent then provided supplementary expert evidence to the Panel. He generally accepted that the Amendment had appropriate regard for the significance, character and setting of the heritage buildings on the subject land.²⁰

Mr Lovell also gave expert heritage evidence for the Proponent. He recommended changes to the wording of Built Form Guidelines under DPO15 since he:

- did not agree with the objective that development should not overwhelm heritage places including dwellings on the south side of Appleton Street
- considered it unnecessary to provide setbacks for the purpose of ensuring the heritage building can be understood as having a three-dimensional form, since he anticipated only the three facades would be kept in a redevelopment proposal
- proposed a reduction of the 10 metre setback to upper forms from the former Office and Laboratory building to 8 metres from the east side and 5 metres from the rear.

Experts disagreed about the capacity for new built form in the vicinity of the existing Office and Laboratory building at 26 Doonside Street. The wording of the schedule as exhibited does not designate a specific dimension for the separation of the podium from this building but there is a graphic representation of the separation sought on the exhibited IFP.

Mr Lovell considered there should be scope for abuttal at lower levels, consistent with historic conditions before the adjacent gabled roof building was demolished.

As mentioned above, both Mr Lovell and Mr Raworth did not see the taller built form as proposed by Ms Heggen as having any detrimental impact on heritage values although they conceded there may be urban design impacts.

The Vision within DPO15 calls for a sensitive adaptive re-use of the heritage buildings, to be informed by a comprehensive heritage analysis prepared by a suitably qualified professional. Mr Gard'ner supported this provision while Mr Lovell did not see the need for the Amendment to require such an analysis.

(iii) Discussion

A central consideration for new development on the land is to respect existing values of the two heritage properties. This needs to be undertaken in the context of adaptive re-use and restoration of these two properties to achieve community benefit.

The heritage evidence was extensive and detailed, and there is a relatively high level of expert support for the Amendment as exhibited. Where there are differing points of view, they are limited more to matters of detail such as the extent of setbacks and the capacity for built form in the vicinity of the former Office and Laboratory building. These should be evaluated with a view to relevant underlying objectives, such as the desirability of appreciating the three-dimensional built form of the building to the Burnley Street corner (which the Panel supports) and the intactness and scale of the Office and Laboratory building fronting Doonside Street.

The Panel supports the retention of the provision in DPO15 regarding adequate building setbacks to prevent development overwhelming dwellings on the south side of Appleton Street. However, it agrees with urban design and heritage experts that the main imperative

²⁰ Document 33.

for these setbacks is based on urban design considerations more so than respect for heritage values. The reason for this is as explained by Mr Lovell, that there is no indication in the heritage precinct citations for the Appleton Street properties that their values would be diminished by taller built form in *separate* heritage overlays. In these circumstances, the determination of setbacks is more properly influenced by considerations of visual bulk and amenity as addressed in Chapter 3.2 above.

The Panel is conscious that not all the heritage fabric of the extant Repco building is worthy of retention on heritage grounds and that newer additions are generally not significant. The extent of heritage fabric to be retained has not yet been determined. This will be an important consideration for further documentation supporting the Development Plan having regard to the significance of the place.

The Panel accepts that the objective in the Amendment seeking setbacks to the heritage Repco building to enable it to be understood as a three-dimensional form is valid. Although an understanding of this building as a three-dimensional form does not depend on roof elements being seen above the facades, in the Panel's opinion, it would rely on a suitable scale of setback of upper forms from the frontages. The retention of this provision as exhibited sets the ambition for proposed setback configurations for future development.

The Panel has also observed the differences between the configuration and presentation of the heritage building on this site compared with other sites that have been redeveloped in the City of Yarra as referred to by the Proponent (including the Supply Co redevelopment in David Street), with lesser setbacks than envisaged by the current IFP. The fact that the building extends over three street facades is a significant consideration for this particular site. Also, in the Panel's experience, some of the examples referred to where minimal setbacks are provided above retained heritage facades (or balcony or other incursions are permitted), have resulted in the notable diminishment of the prominence of the heritage fabric in the streetscape. This warrants a degree of caution, noting that residual discretion exists in the proposed control to enable an effective site specific outcome.

On closer examination, the Panel is persuaded that the proposed reduction of the setback to 8 metres above the Repco building to Burnley Street as supported by Mr Lovell and Mr Raworth would be appropriate to maintain its heritage values including a three-dimensional appreciation of the retained building form. However, a lesser setback (as suggested by Ms Heggen) or other incursions would risk these values being diminished in the streetscape.

The Panel has also considered the appropriateness of the 10 metre proposed setback of upper forms from the heritage building at 26 Doonside Street. The reduction proposed by Mr Lovell (to 8 metres to the east) would be in keeping with the setback the Panel supports for Burnley Street; the issue of separation from heritage fabric being similar in both cases. The purpose of the setback would be to provide clear separation between the existing heritage building and future development forms. This principle would hold true for both the east and the southern side of the building such that the Panel supports a preferred setback to 8 metres from the east and south of the building, not 5 metres as proposed by Mr Lovell.

The Amendment provides that the external form of the Office and Laboratory building should be retained. Although there is a graphic indicator of white spacing on the IFP there is no specific reference to a separation between 26 Doonside Street and lower built form. The Panel is sympathetic to the practicalities of adaptive re-use raised by the Proponent that may justify

additional openings in the heritage fabric, for example. There is also flexibility in internal reconfiguration, provided future development avoids altered floor levels and voids across exiting door or window openings in heritage fabric.

The Panel supports the inclusion of a height limit for the existing building at 26 Doonside Street in the IFP to prevent additions and cantilevering directly over the existing building profile, which it would regard as problematic in line with the evidence of Mr Gard'ner. This height should be articulated in metres to match the existing ridge height instead of 2 storeys.

The Panel regards the remaining issues raised by submitters regarding scale and setbacks having regard to heritage values as appropriately addressed by Council, supported by evidence from Mr Gard'ner and others. The Panel concludes that the combination of heights and setbacks in the exhibited Amendment would adequately protect the heritage values of the site subject to the refinement suggested by the Panel. The Panel further accepts that the proposed heights and setbacks to the south would enable sufficient separation from and respect for heritage values to the south.

(iv) Conclusions

The Panel concludes:

- The separation between the existing building at 26 Doonside Street and upper level forms should be 8 metres to the east and the south.
- It is appropriate to retain provision in DPO15 seeking retention of the three-dimensional form of the Repco building, although the qualitative success of this objective will need to be assessed when a particular proposal is formulated.
- It is reasonable to designate the height of the heritage building at 26 Doonside Street (by articulating its height in metres to the top of the existing ridgeline) in the Indicative Framework Plan for consistency.

3.4 Amenity and public realm

(i) The issues

Key issues are:

- has DPO15 provided sufficient parameters to maintain an appropriate level of sunlight to nearby footpaths?
- would the communal open space areas within the Embassy Apartment complex retain sufficient levels of amenity?
- is the obligation on the Proponent to upgrade the public realm beyond the site reasonable and suitably defined?

(ii) Evidence and submissions

Policies in Clause 22.11 emphasise the need to ensure access to sunlight and amenity is maintained in public spaces.

Protection from overshadowing and sunlight to footpaths

Submitters identified concerns regarding overshadowing of the public realm including footpaths.

The exhibited Amendment indicates that the massing of the proposed built form envelopes based on indicative heights and setbacks would not overshadow properties on the southern side of Appleton Street between the hours of 10.00am and 2.00pm at the September equinox. Likewise, there would be no overshadowing of the footpath on the western side of Burnley Street between the hours of 11.00am and 2.00pm at the September equinox.

Mr McGauran evaluated shadow diagrams based on the exhibited Amendment and confirmed that these criteria for overshadowing would be met. He also concluded that the overshadowing effects on the Richmond Heights apartment building would be very modest in the early morning period and would be mostly alleviated after 11am.

However, Mr McGauran further recommended that the requirement be increased so that the western footpath of Burnley Street would not be overshadowed between 10.00am and 2.00pm. This recommendation was not adopted by Council in its preferred Amendment. The Proponent submitted that there is no quantitative standard in the Planning Scheme supporting the appropriateness of this approach.

Apart from Mr McGauran, the exhibited guidelines concerning overshadowing to the public realm were accepted by Council and the Proponent.

Amenity to communal open space within the Embassy Apartment complex

A number of submitters living in the Embassy Apartment complex were concerned about potential overshadowing of above ground communal open space on Level 7 within the building. They considered that DPO15 should limit or avoid this impact on their amenity.

Council addressed the potential for overshadowing in detail and verified the accuracy (and limitations) of shadow diagrams prepared to support the Amendment. It concluded that the overshadowing of the communal area within the Embassy Apartment complex was caused by that building itself.²¹

Upgrades to the public realm

DPO15 as exhibited requires the preparation of a Public Realm Upgrade Plan. Council did not elaborate on what was intended by this wording.

The Proponent submitted that this requirement was uncertain because it did not specify the nature of these works and suggested it would not be reasonable to require works beyond reinstatement within relevant kerb lines.

Ms Jordan gave evidence that both streetscapes along the site frontages already offer a good level of public amenity and it is difficult to envisage what other works may be required as a result of the redevelopment.

Mr Gobbo QC subsequently clarified on behalf of the Proponent that it would not object to streetscape upgrades in the nature of those outlined in the Tract report accompanying the Amendment.²²

²¹ As illustrated on pages 12 and 13 of Council's Part B submission, Document 45.

²² Document 6, Page 39.

(iii) Discussion**Protection from overshadowing and sunlight to footpaths**

Consideration of the impact of shadow at the equinox is an accepted principle for determining the balance between impacts of built form and public amenity.

The private properties to the south of Appleton Street would not be overshadowed between 10.00am and 2.00pm at the equinox. Part, or all, of the southern footpath could be in shade during these times under the guidelines in the exhibited Amendment.

Appleton Street is a minor road and pedestrian traffic is generally focused on local usage. Although the footpath at ground level may be in shadow, a person using the southern footpath could be mostly in sunlight at these times.

Burnley Street is a larger thoroughfare and is expected to carry more substantial pedestrian traffic. Having the footpath free of overshadowing from 11.00am at the equinox would be a reasonable outcome as proposed in the exhibited Amendment given the greater frequency of usage and the nature of this roadway. The Panel is persuaded that this timeframe represents a generally applied standard in the Planning Scheme and relevant Panel and Victorian Civil and Administrative Tribunal decisions. There is no increased sensitivity of this stretch of Burnley Street that would justify further modification to building envelopes to achieve acceptable overshadowing outcomes.

The Panel also accepts that this guideline will protect against unreasonable overshadowing of the Richmond Heights apartments in Burnley Street.

Amenity to communal open space within the Embassy Apartment complex

The Panel accepts the submissions and evidence on behalf of Council that the parameters set for future built form by DPO15 are unlikely to be the primary source of unacceptable overshadowing on this area of communal open space. In any event, the Panel is also conscious that there are other areas of open space available to residents within this development.

Upgrades to the public realm

The Panel considers that it is reasonable to provide for a requirement for the Proponent to upgrade localised public realm infrastructure given the scale and impact of the development. This obligation is also generally consistent with requirements for the northern side of Doonside Street under the provisions of the Comprehensive Development Zone (Schedule 1) for the Victoria Gardens activity centre.

The Panel is not persuaded by the Proponent that these types of works need to be specified beyond the level of detail already provided in DPO15. The Panel suggests that the planning report prepared by Tract and others supporting the Amendment request provides a useful guide of the likely extent of public works that would have a reasonable nexus with the redevelopment of the site. The nature of these works, the extent of the contribution, timing and whether the contribution is provided in cash or in kind are matters for negotiation with Council as municipal authority and the manager of adjacent local roads.

(iv) Conclusions

The Panel concludes:

- The provisions in the exhibited Amendment seeking to limit overshadowing of the public realm of Appleton Street and Burnley Street are supported without greater confinement.
- The proposed heights and setbacks in Schedule 15 to the Development Plan Overlay would not be the primary source of overshadowing of communal open space within the Embassy Apartment complex since this space is overshadowed by buildings within that site.
- The requirement for the preparation of a Public Realm Upgrade Plan in DPO15 is appropriate to identify the nature of the works required in conjunction with the redevelopment of the land and to address fair contributions by the Proponent.

3.5 Traffic management

(i) The issues

The issues are:

- How should DPO15 address increased traffic and the potential signalisation of Burnley Street and Doonside Street?
- Has loading and unloading been addressed appropriately in DPO15?

(ii) Evidence and submissions

Managing increased traffic

A multitude of local residents expressed concern about the cumulative effect of nearby development approvals, both recently constructed and yet to be constructed. Some submitters considered that traffic counts prepared for the Proponent were an outdated and unreliable base to assess the proposed rezoning.

Both expert traffic engineers for Council and the Proponent considered the assessments already undertaken formed a sufficient basis to evaluate the proposed rezoning.²³ However, they emphasised that the next step required under DPO15 would involve a full Traffic Impact Assessment Report (TIAR) to be prepared on behalf of the Proponent to Council and VicRoads' satisfaction. This would involve the collection of full data to provide a new base case for existing conditions to accurately assess the impact of recent development in the area including as proposed for the site.

Submitters also expressed mixed views about the prospect of a new signalised intersection at Burnley Street and Doonside Street as supported by Council. Some considered that it would improve safety and enable more controlled access to Burnley Street. Others were concerned about the potential for greater delays and driver confusion if so many signalised intersections were so close to each other along this stretch of Burnley Street (referred to by the experts as the 'see through effect').

Ms Dunstan who gave expert traffic engineering evidence on behalf of Council considered submissions from local residents which raised concerns about traffic safety as a result of the rezoning. She concluded that the level of traffic likely to be generated by the rezoning would

²³ They noted that traffic counts had been updated and were found to be generally similar to the last results as expected.

not significantly alter traffic conditions on Burnley Street in the context of existing traffic volumes along that road. A similar view was reached by Ms Marshall.

Ms Dunstan explained that the intersection at Burnley Street and Doonside Street is currently operating under excellent conditions but that sophisticated intersection modelling (SIDRA) anticipated that right turn movements into the arterial network would degrade to very poor as a result of the comprehensive redevelopment of the land.²⁴

In Ms Dunstan's view, it would not be reasonable for this one site to absorb all remaining capacity in the intersection. She therefore regarded new traffic signals at this intersection as a *"necessary and...logical outcome for this intersection to cope with the increased traffic demand generated by the rezoning"*. She emphasised that:

The majority of traffic associated with the development will access the site via Burnley Street, using the signals at Doonside Street. The provision of traffic signals will make this route safe and convenient. As such, the majority of development traffic will be limited to Burnley Street (an arterial road) and Doonside Street, which is a wide local street for most of its length...and capable of accommodating the level of traffic proposed.

The limitation of any Appleton Street vehicle access as a secondary access point ensures the impact of development traffic on this street is limited.

The DPO does not clearly define what 'secondary access' is. In my view, secondary access is less convenient than the primary access, does not provide for loading or truck access and additionally it may service only limited number of car spaces or service only as an entry or exit.²⁵

Ms Marshall who gave expert traffic engineering evidence on behalf of the Proponent considered that the intersection could operate over capacity based on current assumptions but clarified that it was not her position that signalisation would never be required. Fundamentally, she considered the intersection could continue to operate satisfactorily without signalisation subject to relatively small changes in projected development yield or altered traffic distribution.

There were discrepancies with the SIDRA model provided to Council on its request. Ms Marshall was re-called at the hearing to explain the discrepancies in what she explained was a reconstructed model. The model needed to be reconstructed due to data loss associated with working from home arrangements due to COVID-19. Ms Marshall explained that the model had been calibrated to turn off two way sign controls (to enable the use of AustRoads recommended gaps) but had not been modified to vary 'driver aggressiveness' as suggested by Ms Dunstan.

In any case, Ms Dunstan regarded the signalisation of the Burnley Street and Doonside Street intersection as a positive measure that would provide a further opportunity for pedestrians and cyclists to cross safely.

Access and loading

Some local residents provided the Panel with videos and photographs of existing traffic congestion in Doonside, David and Appleton Streets, particularly arising from competing demands from supermarket trucks, conventional vehicles, pedestrians and cyclists. This was

²⁴ The SIDRA model predicted 1.1 Degree of Saturation, with anything over 0.9 Degree of Saturation being problematic on her evidence.

²⁵ Expert report, page 45.

evident at various times of the day and night. They were concerned that the redevelopment of the site should not exacerbate these existing conditions. Some local residents also sought restrictions to limit the number of commercial vehicles associated with the land from accessing local residential streets, especially Appleton Street, to limit impacts on amenity.

Salta Properties Pty Ltd, the owner of the Victoria Gardens Shopping Centre and land in the Mixed Use Zone to the immediate north, also sought protective conditions to ensure that its capacity to continue loading and unloading via Doonside Street would not be constrained by the redevelopment, especially allowing for a potential shopping centre refurbishment or renewal.

The Proponent, supported by the evidence of Ms Marshall, was of the view that DPO15 should provide flexibility to enable appropriate locations for access and parking to be determined at the stage more detailed plans were formulated. It considered that both site frontages could sustain parking and loading. Ms Marshall particularly supported the potential for on street loading for smaller retail tenancies in particular, which may be serviced by vans or small trucks that could use kerbside opportunities in either Doonside or Appleton Street.

By contrast, Ms Dunstan gave evidence for Council that it was appropriate to require 'primary access' to the site from Doonside Street to minimise impacts on other local streets and for waste collection to be on site as proposed in DPO15 as exhibited. She considered that the site was sufficiently large to provide onsite loading and that there would be regular demand for this given the significant amount of commercial floor space and number of potential dwellings.

(iii) Discussion

Managing increased traffic

Is signalisation likely to be required?

There is express policy recognition in Clause 22.11-3 that Doonside Street should be improved as a major vehicular entry to Victoria Gardens and the area to the south. This is consistent with the role of this street in DDO9 applying to the Doonside Precinct.

The Panel accepts the evidence of Ms Dunstan and submissions from parties including Council that there will come a point in time when signalisation of Burnley Street and Doonside Street will be required to sustain a functional and safe road network in light of anticipated traffic movements from the redevelopment of the land.

A similar conclusion was reached in the independent assessment of Ratio Consultants on behalf of the Proponent in its report accompanying the Amendment, which found that signalisation would likely be required when the site achieved 50 percent redevelopment.²⁶

Ms Marshall's position that signalisation may not be required depending on a number of factors is not supported by the Panel. The Panel acknowledges that Ms Marshall carried out her role independently of the Proponent, as she is obliged to do. However, the Proponent has accepted that it would be appropriate for the intersection to be signalised at some stage and for it to make a contribution to these works. The Panel regards this as the preferable approach.

²⁶ Document 7.

Even accepting complications with the reconstruction of the SIDRA analysis the Panel prefers the evidence of Ms Dunstan to the effect that:

- signalisation will be needed to ensure the ongoing proper functioning of this intersection, particularly to facilitate timely right hand turns into Burnley Street in the afternoon peak
- the intersection should not be simplified to a standard T-intersection for the purpose of the SIDRA analysis when it already exists in a more complicated form
- it is reasonable to have distinct regard to pedestrian and cyclist movements within this particular activity centre context
- it is not desirable to encourage drivers to accept lesser gaps in this setting before turning
- in general, it is concerning that the calibration of the model is not entirely clear and fully replicatable by an experienced professional (even if the ultimate difference in projections may not be substantial).

The Panel expects that a further benefit of the intersection upgrade will be improved control over truck movements in and out of the local street network, which is an existing concern expressed by residents such as Ms Power and Mr and Ms Carrington. It will also provide greater capacity for upgrades to occur on land to the north within the Major Activity Centre consistent with planning policy.

How should the issue of timing be addressed?

Council has carefully framed the wording of DPO15 to enable the timing and detailed design of the intersection signalisation to be determined as part of the Development Plan process and its implementation. A Traffic Works Assessment would be required to accompany the Development Plan which would (amongst other things) need to identify mitigating works, assess if an intersection upgrade is required and the trigger for this. A condition of relevant permits would be the preparation of the Traffic Impact Assessment Report and the works identified in this document including potential signalisation and other mitigating works would be secured by a section 173 agreement to be entered into between the time a permit is granted and plans are endorsed under it.

By that point in time, it could be expected that the scale of development and its staging would be known with the benefit of updated traffic data and fulsome analysis. By then it should also be known whether redevelopment of this land or other land in the vicinity will be the catalyst for intersection upgrades and what they would involve.

Therefore, the Panel considers that the way the requirement in DPO15 has been drafted in the 'without prejudice' discussion by parties at the hearing is optimal to provide further analysis and an outline of the scope of the anticipated works, but reasonably contemplates final decisions about these works at the appropriate time.²⁷

What financial contribution should the Proponent provide for the upgrade works?

The Panel recognises concerns expressed by the Proponent about matters of equity. The Proponent explained that the cost of the signalisation works were estimated upwards of \$1m.

²⁷ It makes only confined changes to the operation of this provision that would not affect third party rights and require any further notice.

In reality, the need for this upgrade may also be precipitated by other redevelopment in the immediate area, such as upgrades to the Victoria Gardens Shopping Centre. Much may depend on timing. The Panel was also referred to other localised planning permits requiring financial contributions to this intersection from development such as the Embassy Apartment complex and the Supply Co residential redevelopment in David Street, but these contributions are far more confined than what is now proposed for the current site.

The Proponent committed to making a 'contribution' to the cost of the intersection upgrade but not to fully fund it. One challenge for the Proponent is that there is no existing Development Contributions Plan covering roadworks in this area as the area matures to its full development capacity.

In theory, it may be possible for the TIAR to include further analysis in consultation with Salta Properties and the road authorities to determine a basis for apportionment of the intersection upgrade having regard to the capacity for full development of remaining sites in the precinct. The question is whether there is any utility in recommending this approach because, in the absence of other contributions, the works will not be fully funded and may not proceed.

The Proponent was unable to suggest how the cost of the works could be apportioned to other benefiting or contributing properties. The Panel enquired of other parties whether there may be a trigger for other contributions to these intersection works, but no satisfactory mechanism was identified by parties (including in VicRoads correspondence with Council) or by the Panel itself. This is reinforced by the fact that the redevelopment plans for Victoria Gardens are at an early stage.

As a bottom line, if the redevelopment of this land is first in time, it will effectively be the agent of change. As a matter of principle, if this development necessitates an upgrade to the road network (as the Panel has accepted it will at some stage) and these works are necessary to maintain a safe and functional road network, it is reasonable for the Proponent to carry the cost of these works unless contributions can be lawfully collected from others by the road authority.

On this basis, the Panel supports the wording and intent of DPO15 as drafted.

However, the Panel considers there may be scope to explore the inclusion of a provision in the future section 173 agreement to provide a reimbursement mechanism for the Proponent. This could potentially provide for a proportional reimbursement of funds to road infrastructure upgrades if contributions were lawfully collected from other benefitting land in connection with redevelopment.

Access and loading

The Panel accepts that the relatively high number and mix of vehicle movements in the local network detract from the amenity of local residents. However, so long as they are managed in line with the road rules, they are part and parcel of mixed use areas such as these adjacent to Major Activity Centres. The Panel expects that this issue will be considered in fine detail at the stage relevant permits are applied for to ensure appropriate access and egress, traffic management and safety.

At this stage of the planning process however, the Panel considers a key role for the Amendment is to provide suitable guidance for future site planning to ensure that vehicle movements associated with the redevelopment of the land can be managed appropriately.

Likewise, suitable provision needs to be made for a permeable pedestrian and cycling network (especially with a new north-south link) as foreshadowed in policy and relevant controls.

The Panel is conscious that it is premature to be too directive as to the design of access and loading arrangements for the site since they need to be integrated with the proposed land use and arrangement of buildings on the site. This is precisely the level of detail that would be expected through the Development Plan process and refinement of permit applications generally in accordance with it.

Notwithstanding, the Panel strongly supports Council's preferred wording in the DPO schedule for 'primary access' via Doonside Street in conjunction with the provision of a future signalised intersection. This is important to suitably protect local amenity.

From the Panel's perspective, is it important to recognise the road hierarchy, abutments and zoning differences between Doonside street and that of Appleton Street. It is entirely appropriate to designate this side of the site to Appleton Street for 'secondary access' only to reaffirm and protect this hierarchy and associated character. While the concept of primary and secondary access is not distinctly defined in planning documents, the Panel adopts Ms Dunstan's suggestions as a guide, to be evaluated when more detailed site proposals are developed.

(iv) Conclusions

The Panel concludes:

- The redevelopment of the site will require signalisation of the Burnley Street and Doonside Street intersection at some stage to ensure safe and functional traffic and pedestrian movement.
- It is reasonable for the schedule to the Development Plan Overlay to require the Proponent as the agent of change to contribute to all uncollected costs of the upgrade to the extent required in the absence of any identified mechanism by which the costs of these works can be levied on surrounding landowners.
- The requirements and timing for further investigation of the design of intersection upgrade works in the schedule to the Development Plan Overlay as exhibited are reasonable.
- It is appropriate for the schedule to the Development Plan Overlay to provide that Doonside Street be developed as the 'primary access' frontage for the land, with Appleton Street providing 'secondary access' with limited loading and unloading infrastructure.

3.6 Content of Development Plan Overlay Schedule 15

(i) Key issues

Aside from matters addressed elsewhere in this Report, remaining key issues are:

- the desirability of reducing the graphic content within the Indicative Framework Plan
- the capacity of text within DPO15 to provide acceptable guidance for future built form outcomes.

The Panel was presented with a number of preferred versions of wording for DPO15, building on the exhibited version. None of these suggestions were considered by the Panel or parties

to change the content of the DPO15 to an extent that would warrant further public notification.

To provide a streamlined and workable document, the Panel has used Council officers preferred version of DPO15 as tendered towards the conclusion of the hearing (Document 79) and responded to by parties as the basis for its preferred version of the control in Appendix A.

(ii) Evidence and submissions

Detailed submissions were made by Council and the Proponent about their preferred wording for DPO15. All submissions have been considered by the Panel but are not repeated here. Many matters in dispute are addressed in 'comment boxes' in the Panel preferred version of DPO15 in Attachment A to resolve its view of party submissions and evidence.

In general, the Proponent was concerned that the content of DPO15 would over-regulate the development of the land, disproportionately with its land area compared with other strategic development sites in the municipality. It submitted it was likely that the Development Plan would need to be submitted together with planning permit applications for the actual use and development of the land given the level of detail required for the Development Plan.

Ms Jordan emphasised the need for the Panel to balance the two pillars of clarity and flexibility to arrive at a workable instrument.

The Proponent, supported by Ms Heggen and Ms Jordan, considered that the graphics within IFP should be more streamlined and that relevant objectives could be transferred to the text of the schedule if needed. This would include:

- removal of the dashed lines indicating building envelopes (addressed and supported above)
- removal of the depiction of the 9 metre separation between buildings (addressed and supported above subject to retaining this as a Built Form Guideline)
- a preferred reference to metres rather than storeys to avoid confusion, since commercial and residential floor to floor ceiling levels commonly vary
- a replacement spectrum of preferred land use along each street frontage rather than designated areas for different uses as exhibited
- a textual reference to active frontages rather than graphic depiction as exhibited.

Other issues relate to the timing for certain plans or agreements to be prepared by the Proponent. In most instances, the Proponent sought clarification that these requirements were to be addressed between the time relevant planning permits were granted and the endorsement of plans under those permits. This was acceded to for the most part.

Mr McGauran also considered that a Retail and Commercial Workplace Plan should be required under the schedule. Ms Jordan responded that this was not a meaningful requirement for a site of this size or nature.

(iii) Discussion

In general, the Panel accepts that instruments such as Development Plan Overlays are increasing in sophistication and that this places more onerous obligations on developers. However, a certain level of detail is justified for this site given its location in a largely developed setting with mixed interfaces and a layered policy setting. While it may theoretically be

feasible to 'strip back' certain provisions of the schedule to make it more streamlined, it would not be desirable to attempt a fundamental reworking of structure at this stage in the process given the extent of public notice and the possibility of consequential changes. Therefore, the Panel has commented on the exhibited documentation as refined by parties at the hearing to arrive at what it regards as a sufficiently workable outcome.

For the record, the Panel does not accept the Proponent's submissions that the level of detail required for the Development Plan and associated documentation is akin to that required for a permit application. Likewise, it rejects the notion that no meaningful discretion would remain (for building heights and the like) because of perceived decisions by this council in other instances.

In any case, decisions to approve a Development Plan or associated plans, disagreements about the wording of a section 173 agreement or a decision that something is not generally in accordance with a Development Plan are all reviewable to the Victorian Civil and Administrative Tribunal to ensure transparency and fairness.

The Panel agrees that the reference to metres instead of storeys throughout the schedule is desirable as more certain and in line with preferred planning scheme drafting conventions.

The Panel concludes there is also scope to reduce graphics within the IFP in favour of built form guidelines in DPO15, generally as advanced in expert evidence for the Proponent. It has sought to supplement the wording of the schedule where required to clarify built form and land use outcomes sought.

For the most part, the Panel supports the timing proposed by the Proponent for the preparation of plans and agreements under the schedule, since many aspects rely on a level of specificity that is only likely to be known once a planning permit is granted or imminent.

The Panel considers that sufficient economic analysis has been undertaken for the Proponent leading to its commitment to a minimum 9,000sqm of employment generating floor area. It does not consider that the scale of commercial or retail land use require a further formalised plan to be prepared under the schedule.

It is sufficient for the IFP to indicate a preferred spectrum of locations for various types of land use in diagrammatic form as proposed by Ms Heggen, which should be flexibly applied to achieve integrated and activated site outcomes. For example, it is conceivable that small cafes or home offices are precisely the type of ground floor uses that could activate Appleton Street without detracting from its principally residential land use.

(iv) Conclusions

The Panel concludes:

- The following changes should be made to the Indicative Framework Plan in the exhibited Schedule 15 of the Development Plan Overlay:
 - dashed lines capable of indicating building footprints should be deleted
 - references to storeys should be converted to metres
 - the 9 metre separation between buildings should be deleted (addressed in text)
 - the height of the heritage building at 26 Doonside Street should be nominated by reference to its ridge line height through survey
 - the spectrum of land use should be indicated generally as recommended in Ms Heggen's preferred Indicative Framework Plan

- the notation for active frontages should be deleted (addressed in text).

3.7 Consolidated recommendation

The Panel recommends:

- 1. Approve Yarra City Council's preferred version of Schedule 15 to the Development Plan Overlay as amended in Appendix A subject to the recommendations of this Report.**
- 2. Amend the Indicative Framework Plan in Schedule 15 to the Development Plan Overlay as follows:**
 - a) delete dashed lines capable of indicating building footprints**
 - b) convert references from storeys to metres**
 - c) delete the graphic depiction of a 9 metre separation between buildings**
 - d) specify the height of the heritage building at 26 Doonside Street by reference to its ridge line height through survey**
 - e) adopt the arrow notations pertaining to the spectrum of land use generally as recommended in Ms Heggen's preferred Indicative Framework Plan**
 - f) delete the graphic notation of active frontages**
 - g) make consequential changes based on recommendations in this Report.**

4 Other matters raised by Council

4.1 Public open space

(i) The issues

The issues are:

- does DPO15 made appropriate provision for public open space?
- does Council's recommendation for a Public Open Space report warrant support?

(ii) Relevant policies, strategies and studies

There is strong emphasis in state and local planning policy on development of healthy communities and place-making, including suitable areas of public open space to meet the needs of all users.

Clause 53.01 provides for a 4.5 percent public open space contribution for land or buildings to be used for residential purposes. This would apply to the redevelopment of the land.

Council adopted its Open Space Strategy in 2006. The land is included in Sub-Precinct 3121E where minimal residential growth was anticipated. At that stage, it was expected that additional (small) local open space would meet the needs of the new local population, preferably adjoining the Yarra River corridor.

Council now regards some of the assessments and directions in the Open Space Strategy as outdated and has commissioned a full review to prepare a new Draft Open Space Strategy. This has been on public exhibition and Council is in the process of preparing a replacement Open Space Strategy which it hopes to adopt later this year. The new Open Space Strategy would include the land in North Richmond Precinct C in the catchment of the Victoria Street and Bridge Road Major Activity Centres.

(iii) Evidence and submissions

The Indicative Framework Plan in exhibited DPO15 depicts a rectilinear area of new public open space of 576sqm fronting Doonside Street. This reflects the Proponent's contribution of an equivalent 4.5 percent of land area. In addition, the Proponent explained that increased functionality would result from the wide pathway it had committed to provide adjacent to the new open space. It also highlighted the capacity for interactions between active uses to be established in nearby ground floor buildings to enhance the function of this space, such as cafes, as depicted in photomontages prepared in the report prepared by Tract supporting the Amendment.²⁸

A number of submitters expressed support for the proposed public open space but considered that it would be inadequate to service the number of residents and workers that would be accommodated on the land once redeveloped.

In particular, Mr and Ms Carrington were concerned that the large area of grassed open space adjacent to the Victoria Gardens Shopping Centre that is currently enjoyed by local residents and workers is privately owned and has been earmarked for redevelopment with mixed use

²⁸ Document 6.

buildings. They also explained that local residents need to cross main roads to reach public open space that provides play equipment for families or capacity for ball sports (such as Williams Reserve). In general, submitters emphasised that the Yarra River corridor public open space known as Annette's Place was already heavily used and could only provide limited options for active use.

Council called Ms Thompson, one of the lead authors of its new Draft Open Space Strategy, to give expert evidence. In summary, she referred to the anticipated exponential increase in projected population for the relevant area including the subject land (235 percent increase in North Richmond C between 2016-2031 plus a significant anticipated increase in worker numbers). Ms Thompson explained that whereas a Local Open Space was originally proposed for North Richmond C Precinct, it appears that the projected demand now equates to a Small Neighbourhood Open Space (0.5-0.99 hectares) within convenient walking distance, with the ability to provide multiple functions. In her opinion, with higher development densities comes greater reliance on public open space by residents and workers. This was also observed as a side effect of the COVID-19 pandemic. Another key benefit of additional public open space is the potential to help mitigate the 'heat island effect'.

Consequently, at a meeting of Council, it resolved to seek an additional requirement under DPO15 for the preparation of a Public Open Space Report demonstrating where and how open space could be increased as part of the Development Plan to meet demand associated with the development.

The Proponent did not oppose this requirement outright but suggested that it was preferable for the site to be subject to controls based in the Planning Scheme which have been independently verified as appropriate (if higher than the current 4.5 percent). It also referred to the lack of certainty in terms of what was intended as the outcome for this site as a consequence of the report, such as whether additional land or cash would need to be provided to meet projected demand.

Salta Properties submitted it would be appropriate for the land to contribute to public open space in line with current requirements in the Planning Scheme, but not for Council to mandate a greater contribution.

(iv) Discussion

Does DPO15 made appropriate provision for public open space?

The site is in a location and of suitable scale to deliver a new parcel of public open space as well as associated connections such as a wide, strategically located north-south pedestrian and cycling link.

The Panel notes Ms Thompson's evidence that, at present, existing open space needs for the precinct are met by reference to qualitative criteria such as density, travel distance and an assessment of facilities offered. At the same time, it is clear from future housing and employment projections for this Precinct that demand will increase substantially with anticipated population growth.

Land is at a premium in this location, with very few undeveloped or underdeveloped sites. There is also likely to be a decrease in informal open space as sites in private ownership with a temporary, quasi open space function continue to be developed in line with zoning expectations.

The Panel regards this as a key strategic issue for Council to address as one element of the maturation of this Precinct. Therefore, the preparation of a new Open Space Strategy and associated Planning Scheme amendments is timely. Importantly, this study will form a reasonable basis to reassess public open space contributions in terms of precinct wide demand, precinct wide availability and equitable precinct or municipal wide contributions.

The IFP depicts the new public open space area equivalent to 4.5 percent of the site area, which would meet the requirements of Clause 53.01 of the Planning Scheme.

In circumstances where strategic work is still underway to review the appropriateness of this contribution, the Panel is not persuaded that it would be equitable to require the Proponent to make a greater contribution at this point in time. It would, however, be reasonable to tie the provision of public open space for this site to the controls at the point at which the site is redeveloped, so that if the Planning Scheme rate was to increase, the Proponent would be liable for a higher contribution.

In terms of the quality of the proposed open space, it is identified in a part of the site that has good solar access and opportunities for synergies with land in the Victoria Gardens Shopping Centre or otherwise owned by Salta Properties. This meets clear policy and built form objectives, including those for the Doonside Precinct. It would also adjoin the double storey heritage building to be retained and restored to provide a suitable interface.

The Panel also anticipates that this public open space will be supplemented by communal open space for future residents (and potentially workers) throughout the site to improve amenity for future occupants. This is standard practice for the redevelopment of strategic sites.

Another positive element of the new public open space as identified in the IFP is its adjacency to a new nine metre wide pedestrian and cycle path to be provided on the land. Although this is principally intended to upgrade the local movement network through the Precinct, the Panel agrees with submissions for the Proponent that this presents opportunities for a wider, partly landscaped area that could appear and function as de facto open space subject to integrated design.

By contrast, the more flexible depiction of the new public open space area (potentially traversing either side of the pathway) as proposed in Ms Heggen's evidence is not supported. The Panel considers it is important to provide this space as a single consolidated element. Potentially bisecting this space could lead to poorer outcomes in terms of quality and functionality given its size, role and location.

Mr Gobbo QC on behalf of the Proponent drew the Panel's attention to photo montages for this space contained in the Tract report accompanying the Amendment request. An element that enhanced the presentation and opportunities for this space was the provision of canopy trees. One potential concern for the Panel is the impact of a potential basement underneath this reasonably constrained area of open space, since it is likely to limit opportunities for larger canopy tree planting.

Accordingly, the Panel recommends that the schedule reference an aspiration for deep planting opportunities for canopy trees within the new area of public open space by limiting basement incursion.

Does Council's recommendation for a Public Open Space report warrant support?

The answer to this question is tied to the Panel's analysis above. Most commonly, these types of reports add value by determining whether there is a need for more public open space as a result of development, as is a trigger for its provision under the *Subdivision Act 1988*. In this instance, the Proponent has tacitly acknowledged the need for more public open space by agreeing to provide it on site.

While there may be scope to refine the anticipated demand for public open space as a result of the proposed redevelopment once more detailed development plans emerge, at this stage, the issue is how such a report could reasonably be acted on to achieve tangible and equitable outcomes.

For example, the Panel queried which provisions of draft DPO15 would give effect to the outcomes of such a report. Ms Lane on behalf of Council advised that there are no operative provisions, such as a requirement to enter into a section 173 agreement to contribute additional cash or land.

In the Panel's mind a real challenge emerges because even if the report was to indicate greater demand from the site than could be satisfied by the dedication of an area of 576sqm as proposed, what would come of this? As a matter of equity, the Panel regards the adoption and implementation of the new Open Space Strategy as the proper process for this to be explored on a municipal wide or precinct wide basis.

Likewise, if the report verified that there is a need for a higher order public open space for the Richmond North C precinct than originally anticipated, strategic decisions will need to be made by Council rather than by individual property owners how to secure and fund this.

Therefore, while it may not be overly onerous to require the preparation of a Public Open Space report, the Panel is not inclined to support this given its limited efficacy for the reasons outlined.

(v) Conclusions and recommendation

The Panel concludes:

- The strategic work being undertaken by Council to update its Public Open Space Strategy is relevant and important to the wellbeing of the community. However, it is not equitable to seek a higher proportion than that currently contained in the Planning Scheme on an individual site basis until this strategic work has concluded and been implemented.
- The Proponent should be required to contribute open space to the value of the Planning Scheme requirement in force at the time permission is sought to subdivide the land.
- The proposal to provide a 576sqm public open space area fronting Doonside Street as depicted on the exhibited Indicative Framework Plan is supported as meeting the current requirements of the Planning Scheme and would provide scope for a functional place of retreat or passive recreation.

The Panel recommends:

- 3. Amend Schedule 15 to the Development Plan Overlay to confirm that opportunities for deep soil canopy tree planting should be provided within the new public open space area, free from basement incursion.**

4.2 Affordable housing

(i) The issues

The issue is whether suitable provision has been made for affordable housing within the Amendment.

(ii) Relevant policies, strategies and studies

There are numerous state and local policy objectives that seek to provide increased housing affordability, diversity and choice as summarised in Chapters 2.1 to 2.4.

Council adopted the Policy Guidance Note, *Affordable Housing Outcomes at Significant Redevelopments* (amended November 2018). The original version of this document sought a 5 percent contribution to affordable housing in conjunction with the rezoning of land that could sustain 50 or more dwellings.

Council's *Housing Strategy* seeks to encourage partnerships between housing providers and the development industry to provide more affordable housing to achieve diversity and choice, support for the economy and options for key workers. The Strategy recommends amendment to the Planning Scheme to enshrine a 10 percent contribution upon rezoning for major residential use in line with the amended Policy Guidance Note. This is intended to communicate consistent expectations rather than requiring re-negotiation on a site by site basis.

Council's submission also referred to the outcome of its negotiations (recorded in the Strategy) to achieve at least 10 percent of new apartments as affordable on the former GTV9 site in Richmond and up to 20 percent affordable housing on the Former Gasworks site in Fitzroy North.

On 12 November 2019, Council adopted the Social and Affordable Housing Strategy. Relevant strategies include Direction 1.1.1 confirming that *"when land is rezoned to allow residential use, this positively impacts the site value and Council considers that it is reasonable to capture some of this value and direct it towards improving the provision of affordable housing in the municipality."* The commitment to a minimum 10 percent contribution was reaffirmed in that strategy, as well as the use of the Development Plan Overlay or section 173 agreement to reflect affordable housing agreements. At that time, Council also effected a change to its Policy Guidance Note to seek a 10 percent contribution for significant development sites.

One condition of Ministerial authorisation of the Amendment included the preparation of a Housing Diversity and Adaptability Report (Stage 1) which was prepared by Affordable Development Outcomes²⁹ on behalf of the Proponent and submitted to Council. It included consultation with three Registered Housing Agencies and consideration of potential affordable housing models for the redevelopment of the land. These focused on affordable rental housing and affordable home ownership (through either shared equity or market sales).

²⁹ Document 11.

It foreshadowed more detailed analysis in a Stage 2 report in conjunction with work on the Development Plan; considering demand, pricing and partnership or similar opportunities at that time.

(iii) Evidence and submissions

The Proponent submitted that its commitment to provide 10 percent of the total number of dwellings on the land as affordable housing represents a significant community benefit.

Salta Properties sought clarification from the parties that the Proponent had in effect 'volunteered' a 10 percent affordable housing contribution, rather than this being the minimum Council would have been prepared to accept for new development in the municipality (as an effectively mandatory contribution). This was confirmed on the basis of the current voluntary status of affordable housing contributions in Victoria.

DPO15 proposes to require the preparation of a Stage 2 Housing Diversity and Adaptability Report including proposed site demographics, the model (or models) of affordable housing proposed to achieve the 10 percent contribution and a response to housing needs over the lifetime of future residents. The Stage 1 report indicates that particular consideration will be given in Stage 2 to dwelling size, accessibility, environmental initiatives to reduce living costs and on site services to support different households. It will also involve comprehensive engagement with Registered Housing Agencies on the delivery models.

The DPO schedule as drafted would require the Proponent to enter into an agreement for purchase or management of affordable housing by a Registered Housing Association or Not-for-Profit body to the satisfaction of the Responsible Authority.

(iv) Discussion

The Panel supports the strong policy emphasis on the provision of affordable housing, recognising the current challenges for housing in Victoria, especially in inner Melbourne. The application of this policy to the redevelopment of well located strategic sites is especially important to the achievement of 'critical mass' and the development of integrated communities.

Therefore, the Panel commends the Proponent on committing to providing 10 percent of the total number of dwellings to be provided as affordable housing. This will meet a demonstrated community need in a well serviced location and will provide numerous community benefits, especially if suitably integrated within a range of housing types to be offered on this site.

More work will be needed to refine the nature of the offer through the Stage 2 Housing Diversity and Adaptability Report. As part of this work, the Proponent is encouraged to explore practical options for partnerships in the provision of this housing on this site as a long term proposition once more detailed plans for development emerge. The Panel notes and supports the deliberate flexibility provided for delivery mechanisms sought by the Proponent (as documented in the Stage 1 report), conscious that these continue to be revisited and refined in the marketplace.

While the aspirations of DPO15 to require an agreement to be entered into with a Registered Housing Association or Not-for-Profit to the satisfaction of the Responsible Authority is one

way of achieving affordable housing, the Panel is concerned that these types of agreements tend to take the form of a Memorandum of Understanding or similar.

The Panel supports the requirement for an agreement to be entered into under section 173 of the Act to give effect to the affordable housing commitment. When drafted, the agreement should also give consideration to how the Affordability criteria in the Act and associated Notices and Orders in Council can be met to ensure that the housing will cater for very low, low or moderate income earners on an ongoing basis.

The Panel accepts the Proponent's suggested timing for this agreement between the time a planning permit has been issued and plans are endorsed under that permit. This will enable the detail of the housing offer to be better understood.

(v) Conclusion

The Panel concludes:

- The Proponent's commitment to provide 10 percent of the number of new dwellings on the land as affordable housing will result in important community benefits in line with policy.
- The requirement for a section 173 agreement is appropriate as the mechanism for securing the commitment to delivering the affordable housing contribution.

5 Response to submissions

5.1 Parking and public transport demand

(i) The issues

The issues are:

- how should demands on public transport be addressed?
- has DPO15 made suitable provision for onsite parking at this stage of proposed redevelopment?
- what would be required before a planning permit is granted?

(ii) Relevant policies, strategies and studies

State and local planning policies emphasise the need for development to promote sustainable modes of transport and reduce reliance on private vehicles. There are many obvious advantages of this approach, including environmental sustainability; especially in an inner city environment with constrained capacity.

The subject land is not currently within an area subject to the Parking Overlay where onsite parking numbers are restricted. The starting point for the provision of onsite parking is therefore the rates in Clause 52.06 of the Planning Scheme. The site is located within the Principal Public Transport Network and Column B rates apply.

(iii) Evidence and submissions

Traffic engineering reports prepared on behalf of the Proponent suggested car parking rates for onsite parking in conjunction with the redevelopment of the land. These were below the rates in Clause 52.06-5 of the Planning Scheme that form the current benchmark for different types of land use.

Numerous submitters explained that there is parking congestion in the immediate area with inadequate supply to meet demand. In this setting, they opposed the suggestion that lower parking rates should be contemplated for future uses on this land. In summary, Ms Dunstan and Ms Marshall, independent traffic engineering experts for Council and the Proponent respectively, strongly supported a reduction in the rate of car parking for this site compared with the Planning Scheme rate, with higher numbers of bicycle parking spaces than required. They noted there is no requirement for visitor parking for dwellings in this location given its inclusion in the Principal Public Transport Network and at this stage, none would be provided. Likewise, there is no expectation for onsite visitor parking for retail tenancies consistent with current practice in Major Activity Centres. This was supported by both expert witnesses.

The acceptability of no visitor parking and lower rates of parking was principally founded on the basis of car ownership and ABS statistics, the location close to services and facilities, highly controlled parking restrictions in surrounding streets, the integrated network of public transport plus sustainability policies discouraging car dependence.³⁰ The proposed rates were also compared against other current approvals granted by Council.

³⁰ This was thought to be supported by on street parking restrictions in the local area.

Both experts confirmed that the rates for parking provision should be conclusively determined at the stage a planning permit is sought for a particular use or development, not at the Development Plan Stage. Likewise, both experts supported a requirement for a Green Travel Plan being included in DPO15.

Some submitters also raised issues with infrastructure capacity to support the redevelopment of the land, including public transport infrastructure.

Mr and Ms Carrington highlighted challenges involved with transport given COVID-19 and the emerging (at least short term) level of heightened interest in car ownership given perceived safety issues associated with public transport.

(iv) Discussion

Parking rates for future development

The Panel agrees with the expert witnesses that the rates to be adopted for future land use on this site should be considered at the stage a planning permit application is sought, consistent with the Development Plan. That is the stage when likely demands can be best assessed and capacity for shared use of on site spaces and other initiatives can be explored in detail.³¹ The provision and management of parking is a matter that will need to be to the satisfaction of Council as the Responsible Authority and will be suitably controlled by permit conditions.

That said, the Panel considers it useful to include expert assessment of likely demand as part of the publicly exhibited material supporting the Amendment to consider public comment.

The Panel agrees that there are a range of contextual and policy reasons that support a reduced rate of car parking for this proposal compared with the statutory rate in the Planning Scheme. Having found that car parking rates should be determined at the stage of a planning permit (with no direct reference to these rates in the Development Plan Overlay), the Panel does not make any specific comment about the rates proposed to be adopted or the relatively minor discrepancies in the figures proposed by each expert.

The Panel is conscious that Council is the relevant road authority for the local street network and VicRoads has responsibility for managing Burnley Street conditions. It was suggested in submissions that there is scope for improved regulation of on-street parking in this area to better manage this resource. The Panel considers that these are options for the relevant authorities but notes the recommendations of both traffic experts that these parking controls should be revisited, especially along both site frontages.

Public transport capacity

It may be difficult for some to foresee a full return to public transport post COVID-19 since necessity and public confidence are just two inputs. However, in the medium to long term, it is unfeasible to turn back years of strategic planning seeking to reduce private vehicle use in designated Major Activity Centres such as this.

³¹ For example, Ms Dunstan was satisfied with the rate of parking for the retail component on the basis that each retail offering would be limited in area or that large restricted retail premises may require more customer parking. If assumptions about the potential land use changed, reassessment may be warranted.

The fact is that the subject land is strategically located close to a wide range of services and facilities, including those proximate in the Melbourne CBD. It also has nearby access to a range of public transport options.

The Panel acknowledges the fact that the current frequency or capacity of these public transport options is a concern to some local residents as expressed in submissions. However, the Panel agrees with the traffic experts, Council and the Proponent that this is a systemic issue for state public transport authorities, to be addressed on a precinct wide basis. It is not reasonable to expect broader decisions to be made consequential upon redevelopment of a site of this scale unless they are otherwise warranted.

More particularly, it is not reasonable to curtail the development of this site contingent upon potential upgrades to existing public transport infrastructure, especially where there is no empirical evidence that increased demand could not be accommodated.

(v) Conclusions

The Panel concludes:

- The Panel notes and accepts the general consensus between traffic engineering experts called by the parties that it is appropriate to reduce the standard rates for on site parking for this site and that the time to assess actual parking provision is at the stage a planning permit is applied for.
- The Panel is not persuaded that local residents' perceptions of a lack of capacity in the local public transport network should influence the direction of this Amendment or curtail the development potential of the land. Any concerns would need to be addressed on a precinct wide basis rather than on an individual site basis.

5.2 Impacts on land values

(i) The issue

The issue is whether claimed reductions in land value are relevant considerations for this Amendment.

(ii) Submissions

A relatively large number of local submitters suggested that they would suffer decreases in the value of their properties if the land was redeveloped in line with the IFP.

Council submitted that this was not a factor that should weigh against the Amendment in any form. It referred to a selection of cases of the Victorian Civil and Administrative Tribunal and reports from Planning Panels Victoria that confirmed that private economic considerations are not generally relevant matters when assessing a planning scheme amendment.³² Although the Act refers to considerations of economic development, it submitted that this reference is directed towards public or community benefits or disbenefits.

Council also emphasised the substantial capacity for net community benefit as a result of the Amendment overall including:

³² Including *Dustday Investments Pty Ltd v Minister for Planning* [2015] VSC 101, where the Supreme Court reviewed the analysis of the Panel in its report for Amendment C207 to the Melbourne Planning Scheme.

- the provision of 10 percent affordable housing
- the creation of new public open space and pedestrian and cycling links
- a minimum 9,000sqm gross floor area provision of employment generating uses and increased activity consistent with policies for the Precinct, as outlined in the economic report accompanying the Amendment (prepared by Deep End Services)³³
- built form controls to protect reasonable residential amenity
- adaptive re-use of heritage buildings including their conservation.

(iii) Discussion

The Panel agrees with the Responsible Authority's assessment that potential effects on private land values in the area should not affect its consideration of the Amendment. These are not the type of economic considerations referred to in the Planning Scheme or legislation as significant.

In any case, alleged depreciation of private properties has not been demonstrated with any specificity; let alone through tested evidence. To the extent that residents may perceive devaluation from a reduction in city views from an interrupting building, this is addressed further below.

Land values can potentially be impacted by a wide range of factors including timing. In the Panel's experience, the enhancement of a mixed use offer within a Major Activity Centre has the potential to increase the vibrancy and desirability of nearby housing stock. In terms of the development of the land, a key purpose of the Amendment is to establish suitable parameters for future built form that will respond to the existing and emerging setting of the land.

In terms of the rezoning, there is also a potential for uplift in amenity and services for nearby residential properties if the land was rezoned from Industrial to Mixed Use.

(iv) Conclusions

The Panel concludes:

- Claimed reductions in the value of privately held property are not relevant considerations for this Amendment.
- No evidence was presented about the impacts of the redevelopment of the subject land on nearby properties. It is also conceivable that surrounding land values may increase once the site and nearby land is redeveloped to their full potential.
- There is substantial capacity for net community benefit through the rezoning and redevelopment of the land subject to appropriate controls.

5.3 Impacts on amenity and views

(i) The issue

Key issues are:

- whether the Amendment has given due regard to the need to maintain a reasonable level of residential amenity for nearby residents, including protection of private open space from overshadowing

³³ Summarised in Council's Part A submission, paragraph 40.

- whether the Amendment needs to have regard to potential impacts on existing views from private property.

(ii) Evidence and submissions

Some residential submitters in Appleton Street were concerned about potential overshadowing impacts on their properties, especially on private open space areas within their front setbacks.

Council explained the built form guidelines in DPO15 had been formulated to ensure that podium level buildings fronting Appleton Street would be limited in height to ensure no overshadowing of these spaces between 10am and 2pm at the equinox. It pointed out that the equinox was the proper measure for analysis under the Planning Scheme.

Council also pointed to a suite of provisions in DPO15 targeted to limit effects on amenity of nearby properties, such as those seeking to moderate the effects of walls to side or rear residential boundaries by increased setbacks and other measures to reduce overshadowing and visual bulk.

Other submissions raised concerns about the potential for overlooking such as into apartments or balconies of the Embassy Apartment complex or rear yards of properties in Appleton Street.

Council highlighted the application of Clause 58 (Better Apartment Design Standards) to the ultimate redevelopment of this land which contained a number of objectives pertaining to building setbacks and internal views. Council also identified the preferred 9 metre separation between upper levels of new buildings on the land as would be enshrined in DPO15.

In respect of Appleton Street properties, Council accepted Mr McGauran's conclusion in evidence that submitters' concerns about overlooking cannot be sustained due to upper level setbacks, intervening distance, fences and vegetation.

Another issue raised by submitters was the potential for development on the land to block existing views, such as towards the city from the Embassy apartments. It was considered that this would detract from the reason many of these residents had purchased their particular apartments.

(iii) Discussion

The Amendment does not have the potential to impact on views that are valued and protected by the Planning Scheme. To the extent that some local residents currently enjoy particular views (such as towards the city), these views are no doubt valued but also fortuitous. It is clear that the site hosts far greater potential for taller buildings than at present. It is probable that new buildings on the land may affect some of these views. However, in the Panel's view, it is not reasonable to constrain development on this site to avoid such an outcome.

Instead, it is important to ensure that new development on the land will reasonably protect residential amenity of nearby properties. This would be achieved by suitable setbacks, heights and other Built Form Guidelines as specified in DPO15 and reinforced by the vision of the schedule.

One key element of site planning for the redevelopment of this land is the intention to create a 9 metre separation between the upper levels of new buildings (above podium level). This

will be an important way to achieve views and daylight through the site and to reduce the perceived scale of building forms. If managed carefully, this may have the potential to preserve some outlooks from adjoining land or to create new viewlines.

(iv) Conclusions

The Panel concludes:

- While private views from nearby residential properties are valued, they are not views that are protected by the Planning Scheme.
- Given separation distances and the provisions of Clause 58, there are suitable parameters in place to maintain a reasonable level of amenity for nearby residents and to protect private open space from unreasonable overshadowing.
- The recommended 9 metre separation between upper levels of building forms on the subject land is an important component of ensuring spacing between buildings and visual permeability through the site.

5.4 Submission by Salta Properties Pty Ltd

(i) The issues

The issues are:

- whether the Amendment has had suitable regard to the operations of the Victoria Gardens Shopping Centre, associated land and its future capacity for redevelopment
- has sufficient guidance been provided by draft DPO15 for the location future north-south pedestrian and cycling link?

(ii) Evidence and submissions

As mentioned, Salta Properties and associated companies own the Victoria Gardens Shopping Centre, vacant and other surrounding land³⁴ within the Comprehensive Development Zone (Schedule 1) and properties opposite the subject land north of Doonside Street within the Mixed Use Zone. It was principally concerned to ensure that development of the subject land is consistent with the current and future development of its land. It supported the rezoning of the land and introduction of the Design and Development Overlay subject to refinement.

As mentioned above, Salta Properties considered there was scope for taller built form on the northern and central parts of the subject land compared with preferred maximum heights identified in the exhibited IFP. The Panel has responded to this suggestion in Chapter 3.1 above.

Salta Properties particularly wanted to ensure its ability to continue to load and unload via David Street would not be compromised by the redevelopment of the subject land. It proposed a requirement for consultation with it in respect of various provisions of DPO15, particularly in assessing existing conditions and proposed road upgrades.

It also emphasised the need for certainty in the location and dimensions of the proposed pedestrian and cycling link on the subject land, recognising a strategic intent for this to continue on a northbound alignment through its land in line with local policy at Clause 22.11-

³⁴ The Panel was provided with an update on the progress of development permission sought for some of these properties in Documents 70a-73.

3 and associated reference documents. For this reason, it preferred the depiction of this element in the exhibited IFP compared with the more flexible approach proposed by Ms Heggen.

Salta Properties sought refinement of the wording in DPO15 to clarify that new residential development on the subject land must attenuate against noise from surrounding industrial and commercial land use so these uses would not be compromised over time.

(iii) Discussion

Salta Properties is a key landowner in the precinct with a direct interest in maintaining the use and development capacity of the Activity Centre. Its concerns to protect future opportunities, including the ongoing operation of existing businesses, are reasonable.

Appropriate wording has been refined to ensure suitable noise attenuation for new residential properties on the land, recognising the mixed use activity centre context.

The Panel supports the use of Doonside Street for primary access for the subject land, subject to the need to ensure the ongoing functionality of this street as a loading route for the Victoria Gardens Shopping Centre. The revised wording of DPO15 also reflects a commitment by the Proponent to consult with this key stakeholder as agreed.

It is therefore reasonable to include the traffic demands of this land in traffic assessments for the subject land and to have regard to cumulative impacts when determining the need for road infrastructure upgrades.

Likewise, the Panel supports greater specificity about the location of the north-south pedestrian and cycling link, with a view to this extending into the Salta Properties landholding in future.

(iv) Conclusions

The Panel concludes:

- The Amendment has had suitable regard to the potential redevelopment of nearby land, including that owned by Salta Properties. Suitable consideration will be given to avoid compromising the ability for retail or commercial tenancies to load and unload via David Street.
- The exhibited Indicative Framework Plan provides sufficient certainty at this point in the planning process as to the preferred location of the new north-south pedestrian and cycling link on the land to enable Salta Properties to plan an integrated future upgrade.

Appendix A Panel preferred version of the Development Plan Overlay Schedule 15

C223yara SCHEDULE 15 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO15**

81-95 BURNLEY STREET AND 26-34 DOONSIDE STREET, RICHMOND**1.0 Objectives**

C223yara None specified.

2.0 Requirement before a permit is granted

C223yara A permit may be granted for the following before a development plan has been approved:

- Buildings or works necessary for existing businesses or uses to continue.
- Consolidation or subdivision.
- Removal or creation of easements or restrictions.
- Demolition or removal of buildings.
- The construction or carrying out of minor buildings or works, including site preparation.
- Buildings and works associated with or for the purpose of obtaining a certificate or statement of environmental audit under the *Environment Protection Act 1970*; or environmental matters pursuant to any successor legislation, including the *Environment Protection Amendment Act 2018*, where these works do not prejudice the preparation and approval of the Development Plan and the vision for the land set out in this overlay.

Before granting a permit the Responsible Authority must be satisfied that the permit will not prejudice the future use and development of the land and will not compromise the vision for the site as set out in this schedule.

2.1 Section 173 Agreement to provide for affordable housing

The owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987* which requires that the owner must facilitate the provision of 10 percent of the total number of dwellings (being the total number of dwellings provided within the DPO15 area) as affordable housing by:

- Entering into an arrangement with a Registered Agency under the *Housing Act 1983* for the provision of the affordable housing within the DPO15 area to a Registered Agency; and/or
- Making other arrangements for the provision of affordable housing in conjunction with a Not for Profit (registered with the Australian Charities and Not-for-profits Commission) to the satisfaction of the Responsible Authority; and/or
- Making other arrangements for the provision of for the provision of Affordable Housing as defined at Section 3AA of the *Planning and Environment Act 1987*, to the satisfaction of the Responsible Authority.

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

The Section 173 Agreement must be entered into ~~prior to~~ once a planning permit ~~being~~ has been issued but prior to the endorsement of plans in accordance with the approved Development Plan

2.2 Section 173 Agreement to provide for public infrastructure

The owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987* for the provision of or a proportionate contribution to the following items of public infrastructure in accordance with the Public Realm Plan prepared and approved in accordance with this schedule. The

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Commented [A1]: As preferred by the Proponent – this will facilitate more detailed provisions in the section 173 agreement

works may include but are not limited to:

- Streetscape and public realm improvements to Doonside Street;
- Streetscape and public realm improvements to Appleton Street; and
- A minimum nine (9) metre wide pedestrian lane connecting Doonside Street and Appleton Street ~~at the approximate mid point of the Site~~, generally in accordance with the *Indicative Framework Plan* at Figure 1.

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

The Section 173 Agreement must be entered into once a planning permit has been issued but prior to the endorsement of plans in accordance with the approved Development ~~Plan~~.

2.3 Section 173 Agreement for Traffic Impact Assessment Report works

The owner (or another person in anticipation of becoming the owner) must enter into an agreement with VicRoads and the Responsible Authority under section 173 of the Planning and Environment Act 1987 for the provision of works which are identified in the Traffic Impact Assessment Report prepared and approved in accordance with this schedule. The works may include but are not limited to:

- mitigating works required for each development stage in the Development Plan; and
- a two way or a four way signalised intersection between Burnley Street/Doonside Street/Buckingham Street ~~if required, approved by VicRoads in consultation with the Responsible Authority~~ and
- ~~a new intersection, if required, approved by VicRoads in consultation with the Responsible Authority.~~

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

The Section 173 Agreement must be entered into once a planning permit has been issued but prior to the endorsement of plans in accordance with the approved Development Plan.

2.4 ~~Section 173 Agreement for Heritage Conservation Places within the Site~~

~~The owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 providing for the conservation of heritage places within the site. The Section 173 Agreement must provide that the owner must engage a suitably qualified person to:~~

- ~~▪ prepare a schedule of conservation works for the retained facades of the heritage buildings at 81-95 Burnley Street and the exterior form of the heritage building at 26-34 Doonside Street, including timeframes for each action to the responsible authority's satisfaction;~~
- ~~▪ undertake archival recordings of the heritage buildings (81-95 Burnley Street and 26-34 Doonside Street) to the responsible authority's satisfaction prior to any demolition on the site; and~~
- ~~▪ prepare a heritage maintenance plan defining the ongoing cyclical repair and maintenance for the retained facades of the heritage buildings at 81-95 Burnley Street and the exterior form of the heritage building at 26-34 Doonside Street to the responsible authority's satisfaction~~

Commented [A2]: This has not been amended to specifically reference the endorsement of plans 'under the permit' as suggested by the Proponent for completeness as the term *endorsement* is already understood as referable to such plans; as distinct from the *approval* of a Development Plan as this term is used in the parent overlay.

Commented [A3]: Splitting this in two suggests that there may be other new intersection works aside from in this location.

3.0 Conditions and requirements for permits

C223yara

3.1 Permit requirements

Except for a permit granted in accordance with Clause 1.0 of this Schedule, a permit must contain conditions that give effect to the provisions and requirements of the approved development plan.

3.2 Heritage Impact Statement

A permit application must include, where relevant:

- A heritage impact statement prepared by a suitably qualified professional that assesses the impact of the proposed development on the heritage values of the heritage place ~~and the context and setting of heritage places in the vicinity of the site.~~
- A sightline analysis and 3D modelling of the proposed development from key view points in the public realm to enable an assessment of the visual impact of the development on the heritage places within the site.

3.3 Heritage Conservation

A planning permit granted for the development of parts of the site within the Heritage Overlay must contain conditions requiring the permit holder to:

- Engage a suitably qualified person to:
 - prepare a schedule of conservation works for the retained facades of the heritage buildings at 81-95 Burnley Street and the exterior form of the heritage building at 26-34 Doonside Street, including timeframes for each action to the Responsible Authority's satisfaction;
 - undertake archival recordings of the heritage buildings (81-95 Burnley Street and 26-34 Doonside Street) to the responsible authority's satisfaction prior to any demolition on the site; and
 - prepare a heritage maintenance plan defining the ongoing cyclical repair and maintenance for the retained facades of the heritage buildings at 81-95 Burnley Street and the exterior form of the heritage building at 26-34 Doonside Street to the Responsible Authority's satisfaction.
- Require the permit holder to implement the conservation works and heritage management plan to the satisfaction of the Responsible Authority within the timeframes provided.

Commented [A4]: Same content but moved

3.3.4 Traffic Impact Assessment Report (TIAR)

A permit application must include a Traffic Impact Assessment Report (TIAR) prepared by a suitably qualified traffic engineer in consultation with the owners of the Victoria Gardens Shopping Centre. The TIAR must include all of the matters dealt with in the Traffic Works Assessment, as set out in 4.2 of this DPO, and include:

- Details of the proposed car parking and bicycle parking provision and anticipated traffic generation of the proposal the subject of the permit application.
- An assessment of the capacity of the existing road network to accommodate anticipated traffic generation.
- Any mitigation works necessary to accommodate the anticipated traffic generation.

Commented [A5]: Suggested by Salta Properties Pty Ltd and accepted by the Proponent. The Panel considers the requirement to consult with the owner of the centre as acceptable although not necessary.

3.4.3.5 Green Travel Plan

A permit application must include a Green Travel Plan that demonstrates that the development supports sustainable transport alternatives to the motor car, provides on-site car share spaces and considers the opportunity for bicycle parking and storage facilities. The Green Travel Plan must be prepared to the satisfaction of the Responsible Authority by a qualified traffic engineer.

4.0 Requirements for development plan

C223yara A development plan must be generally in accordance with the *Indicative Framework Plan* as shown in Figure 1, and the vision set out in this schedule, to the satisfaction of the Responsible Authority.

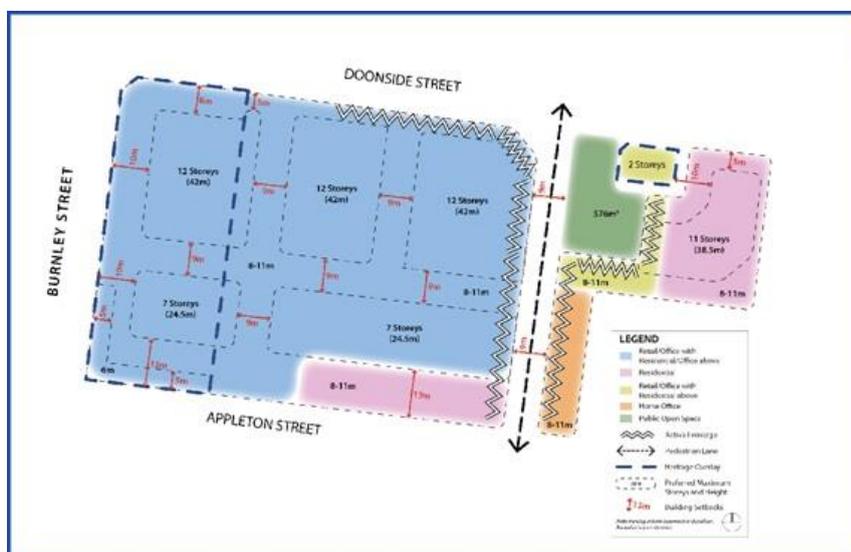
A development plan must be approved for the whole site, however the land may be developed in stages.

The development plan must include the following sections, all prepared to the satisfaction of the Responsible Authority:

4.1 Development Plan Vision

- To become a sustainable, mixed-use residential community, supported by convenience retailing services, community facilities, and employment opportunities complementing the role of the Victoria Street Activity Centre.
- To recognise the opportunity of the site's activity centre context, whilst respecting the low rise residential development to the south.
- To protect the reasonable amenity of residential properties on the south side of Appleton Street and to the east of the subject site.
- To provide improvements to the public domain, including pedestrian friendly environments along all street frontages, the provision of public open space and a pedestrian laneway.
- To provide a high standard of internal amenity, building separation and best practice environmentally sustainable design.
- To respect the scale and form of heritage places within and adjacent to the site.
- To provide for the conservation of heritage places within the site.
- To ensure that new development mitigates any adverse impact it may generate upon local traffic conditions.
- To ensure that the primary responsibility for noise attenuation rests with the agent of change
- To ensure that the primary responsibility for noise attenuation rests with the agent of change.
- To ensure new development, does not unreasonably prejudice by way of reason of reverse amenity the ongoing operation of nearby existing commercial, industrial and warehouse businesses, including Victoria Gardens Shopping Centre.
- To provide for the sensitive adaptive re-use of heritage buildings in accordance with the Comprehensive Heritage Analysis referred to in Clause 4.2 ~~Indicative Framework Plan and informed by a comprehensive heritage analysis prepared for the site by a suitably qualified professional that:~~
 - ~~— articulates the significance of the heritage place, its component parts and its setting;~~
 - describes the relationship between the heritage place and any neighbouring or adjacent heritage place/s; and
 - establishes principles for managing the significance of the heritage place and its relationship with its surroundings

Figure 1: Indicative Framework Plan



4.2 Components of the Development Plan

SITE AND CONTEXT INFORMATION

A site analysis that identifies:

- the key attributes of the land and its context;
- existing or proposed uses on adjoining land;
- other neighbourhood features such as public transport, activity centres, walking and cycling connections; and
- important views to be considered and protected, including views of existing heritage buildings.

CONCEPT PLANS

Concept plans must include:

- An indication of the approximate residential yield for the site;
- An indication of the expected use of each building and estimated floor area for each use, including any commercial or retail yield;
- At least 9,000m² of Gross Floor Area provided for employment generating activities;
- An indication of the location and approximate commercial and retail yield for the site;
- A north south pedestrian lane :
 - with a minimum width of 9 metres;
 - that provides safe and pleasant pedestrian and cycling access between Doonside Street and Appleton Street;
 - that receives sunlight between 10am and 2pm at the equinox;
 - that remains publicly accessible to pedestrians at all times; and that will not be accessible by private vehicles at any time (with the exception of emergency services and public/authority

services).

- The provision of at least 4.5% of the total site (576 square metres) for public open space which fronts Doonside Street and adjoins the pedestrian [lane \(or a higher percentage if contained in Clause 53.01 of the Yarra Planning Scheme at the time of subdivision\)](#). The plan must show the area of public open space in square metres and its percentage of overall site area; and
- Indicative vehicular, pedestrian, cyclist and loading access points and connections.
- Details of any works or treatments proposed to Doonside Street or Appleton Street or the nearby road network.

BUILT FORM GUIDELINES

Built form guidelines [to assist the implementation of the Vision](#) which provide the following:

- Preferred maximum building heights and envelopes responding to the site context;
- Building setbacks from street boundaries that ensure that future development does not overwhelm the scale of the heritage buildings on the site [and presents acceptably to lower scale buildings or on heritage places](#) in the vicinity of the site, including dwellings on the south side of Appleton Street
- Building setbacks from the facades of 81-95 Burnley Street that ensure the heritage building can be understood as having a three dimensional form;
- [Preferred m](#)Minimum upper level (above podium) setbacks of:
 - 13 metres from the Appleton Street site boundary.
 - ~~8+0~~ metres from the Burnley Street site boundary.
 - 8 and 5 metres from the Doonside Street site boundary.
 - 9m from habitable room windows or balconies of the Embassy building directly to the east and south.
- Ensure new buildings are well spaced ([preferred](#) minimum ~~of~~ 9 metres between buildings above podium);
- Buildings set back a minimum of ~~8+0~~ metres (above podium) from the heritage building at 26-34 Doonside Street;
- Inter-floor heights within the heritage buildings on the site which do not cut across existing door and window openings;
- Ensure the retention of [key](#) heritage fabric of:
 - the Appleton Street, Burnley Street and Doonside Street elevations of 81-95 Burnley Street (former Repco Factory) for the extent of the building within in heritage overlay; and
 - external form of 26 Doonside Street (former Repco Offices and Laboratories), [while allowing adaptive reuse](#).
- Active frontages to Burnley Street, [Doonside Street](#), open space and the pedestrian lane, as appropriate;
- ~~Massing diagrams that model the proposed built form envelopes based on the indicative heights and setbacks;~~
- ~~Shadow diagrams that demonstrate:~~
 - ~~no overshadowing of private properties on the southern side of Appleton Street beyond that caused by a building of 11m when measured between the hours of 10:00am and 2:00pm at the September Equinox.~~

Commented [A6]: This would contemplate the provision of additional openings as suggested by the Proponent. It would also put the retention of heritage fabric back into the context of the sensitive redevelopment of the site.

Commented [A7]: These are better expressed as Supplementary Documentation since they are not in the form of guidelines. They have been moved below.

- ~~— no overshadowing of the footpath on the western side of Burnley Street from 11 am at the September Equinox.~~
- ~~— at least 65% of the proposed park has access to sunlight at all times between the hours of 10am and 2pm at the September Equinox excluding the area of park overshadowed by the existing heritage building at 26 Doonside Street, Richmond.~~
- ~~— no unreasonable overshadowing of Doonside Street public open space area.~~
- ~~Indicative palette of building materials and architectural treatments throughout the site.~~ The design and use of materials should respond to the industrial heritage of the site, as well as presenting respectfully to the residential heritage to the south.
 - Provide for high quality architecture and spaces throughout the site and respond to heritage places through, as appropriate:
 - Create an interesting and varied street wall and podium which is reinforced through ~~the contemporary use of common typical historic industrial materials~~, a range of parapet heights and rebates of sufficient depth and texture to provide modulation in the street facade.
 - ~~— Create an interesting and varied street walls and podiums which is responsive to the industrial presentation and traditions of the site industrial history, character and past uses to the heritage building.~~
 - Use contemporary architectural detail which complements and responds to the significant elements of the heritage buildings
 - Avoid highly articulated facades above retained heritage buildings,
 - Ensure there is solid built form behind retained facades and avoid balconies behind existing openings.
 - Provide high quality treatments to the building facades facing the pedestrian lane and streets.
 - Ensure car parking is screened by buildings and not clearly visible from the street, or otherwise located in basement areas;
 - ~~Provide guidelines to~~ Ensure buildings are designed to ameliorate adverse wind conditions at street level, public spaces and lower level dwellings;
 - Ensure buildings are designed along Appleton St to break up the form of the street wall.
 - Minimise vehicle access and traffic movements in Appleton Street.
 - Ensure buildings are designed and spaced to create a visually interesting skyline, streetscape and coherent precinct.
 - Ensure that site services and loading areas are carefully designed to minimise impacts on streetscapes, shared spaces and pedestrian footpaths and laneways.
 - ~~▪ Access to the ground level of the south and eastern interfaces of the park to occur in minimum 4m wide circulation zone in addition to the park.~~
 - Buildings designed to ensure the effectiveness of new residential development and other noise sensitive uses in protecting their own amenity where potentially affected by existing commercial, industrial and warehouse businesses.
 - ~~▪ Minimise the potential impacts of existing nearby commercial, industrial and warehouse businesses (including noise, light, odour and 24 hour traffic movements), in the design and construction of buildings.~~
 - To encourage sustainable transport initiatives.

Commented [A8]: This has been reinstated because it is not expected that all elements of the significant buildings should guide the built form response (i.e. there may be a high proportion of non significant fabric).

Commented [A9]: The Panel accepts the Proponent's submission that the adequacy of spacing across the site and the interface with open space will be assessed qualitatively in approving development proposals. It is not necessary to prescribe additional dimensions for circulation areas as proposed by Mr McGauran.

Commented [A10]: This substantially duplicates the guideline above.

SUPPLEMENTARY DOCUMENTATION

- [Massing diagrams that model the proposed built form envelopes based on the indicative heights and setbacks;](#)
- [Shadow diagrams that demonstrate:](#)
 - [no overshadowing of private properties on the southern side of Appleton Street beyond that caused by a building of 11m when measured between the hours of 10:00am and 2:00pm at the September Equinox.](#)
 - [no overshadowing of the footpath on the western side of Burnley Street from 11 am at the September Equinox](#)
 - [appropriate access to sunlight within the proposed park between the hours of 10am and 2pm at the September Equinox to provide a reasonable standard of amenity and useability as a principally passive open space.](#)
- [Indicative palette of building materials and architectural treatments throughout the site.](#)

Commented [A11]: This has been moved from Built Form Guidelines

Commented [A12]: This was accepted by Council and the Proponent. Mr McGauran considered 10am was the relevant starting time. The Panel does not accept this as necessary for this particular setting as discussed in Chapter 3.4.

Commented [A13]: In the Panel's view it is difficult to be definitive about a reasonable proportion of sunlight at this stage in the absence of design and an understanding of built form and landscape interfaces within the site. However, it is possible to outline the likely use of the space and broad expectations.

OPEN SPACE AND LANDSCAPE

~~A Public Open Space Report must be prepared by a suitably qualified expert that demonstrates where and how open space can be increased to meet the demand associated with the development, as part of the development plan to the satisfaction of the Responsible Authority.~~

A Landscape Concept Plan must be prepared that provides:

- Indicative dimensions of open space [in all parts of the site](#) ~~of at~~ ground level to the satisfaction of the Responsible Authority
- An overall landscape masterplan for the site that includes landscape concepts for proposed open space and improvements along Appleton Street and Doonside Street;
- [Deep planting opportunities for canopy trees within the proposed public open space, free from basement incursion;](#)
- A written description of the management of the open space, pedestrian lane and other landscaped areas, including sustainable irrigation principles such as water sensitive urban design opportunities; and
- Details of how the Landscape Concept Plan responds to any requirements of the site remediation strategy for the land.

Commented [A14]: The Panel considers it is more pertinent to consider all key areas of open space including communal open space requiring landscaping above ground level

PUBLIC REALM PLAN

A Public Realm Plan must be prepared to the satisfaction of the Responsible Authority. The Public Realm Plan must detail how the development will contribute towards improving the public realm adjacent to the site and provide the following information:

- Principles for how future development will contribute to improving the public realm and promoting inviting, pedestrian-friendly public spaces.
- Indicative locations of public realm infrastructure works such as footpaths, bike paths, street lighting and furniture, and street trees, including:
 - Streetscape and public realm improvements to Doonside Street;
 - Streetscape and public realm improvements to Appleton Street; and
 - A minimum nine (9) metre wide pedestrian lane connecting Doonside Street and Appleton Street ~~at the approximate mid point of the Site,~~ generally in accordance with the *Indicative Framework Plan* at Figure 1.

HOUSING DIVERSITY REPORT

A Housing Diversity and Adaptability Report must be prepared to the satisfaction of the Responsible Authority which provides the following information:

- A demographic analysis of the types of people and households anticipated to live within the development based on the proposed dwelling design and bedroom mix.
- The model(s) to provide 10% of the ~~overall housing stock~~ [total number of dwellings](#) as affordable housing
- Demonstrate how the development plan responds to the particular housing needs of future residents across their lifetime.

ECONOMIC ASSESSMENT

~~An economic assessment must be prepared which identifies, as appropriate, viable employment generating uses for the site.~~

TRANSPORT ASSESSMENT

A Traffic Works Assessment (TWA) prepared by a suitably qualified traffic engineer to the satisfaction of the Responsible Authority and Vic-Roads. The Traffic Works Assessment must include ~~and demonstrate the following:~~

- An existing conditions assessment, including existing and approved vehicle and loading access arrangements ~~in David Street via access from Doonside Street~~ associated with the Victoria Gardens Shopping Centre [with capacity to interact with traffic from the development](#).
- Details of any development staging.
- [Consultation with the owner of the Victoria Gardens Shopping Centre](#)
- A site layout plan showing convenient and safe primary vehicle access, including:
 - Primary vehicle access to and from Doonside Street;
 - Any vehicle access to Appleton Street to be a secondary access point;
 - No direct vehicle access to or from the site via Burnley Street.
- Details regarding the indicative layout and function of any internal street or laneway network and
- ~~On~~ site car parking and bicycle parking provisions and allocations.
- Expected traffic volumes and impact on the existing road network, including but not necessarily limited to Doonside Street, Appleton Street and Burnley Street. This assessment is to include details of any assumptions relied upon.
- The (TWA) is to include consideration of any development stages and approved/current development applications within the immediate area surrounding the site. The assessment is to:
 - identify mitigating works required for each development stage in the Development Plan
 - assess whether a two way or a four way signalised intersection between Burnley Street/Doonside Street/Buckingham Street is required and the trigger for providing the signalised intersection to the satisfaction of VicRoads
 - identify a new intersection layout and operation, if required, approved by VicRoads in consultation with the Responsible Authority.
- Details of any works or treatments proposed to Doonside Street or Appleton Street or the nearby road network.
- Determine the likely increases to pedestrian and bicycle movements generated by the site and

Commented [A15]: Suggested by Salta Properties Pty Ltd and accepted by the Proponent. In this instance, consultation with this landowner is important to ensure an understanding of the use of key transport routes and potential plans to upgrade the centre, being matters of orderly planning when assessing cumulative traffic impacts and associated works in this locality.

the likely distribution of those movements. Demonstrate how the subject site will prioritise those movements and provide convenient connections to existing infrastructure.

- Measures to reduce conflict and improve pedestrian and bicycle amenity (if applicable).
- Indicative loading arrangements, with loading to be undertaken on site and conflict between the loading bay(s) and car parking areas and non-motorised transport to be minimised.
- Estimate the type and number of loading/unloading activities associated with the development and provide information on appropriate loading/unloading facilities to service the various uses proposed.
- Access to the site by trucks is to be via Doonside Street.
- Details regarding on-site waste collection, with waste vehicles accessing the site from Doonside Street.

GREEN TRAVEL PLAN

~~A Green Travel Plan must demonstrate that the development supports sustainable transport alternatives to the motor car, provides on site car share spaces and provides bicycle parking and storage facilities. It must be prepared to the satisfaction of the Responsible Authority and prepared by a qualified traffic engineer.~~

ENVIRONMENTALLY SUSTAINABLE DESIGN (ESD)

An environmentally sustainable design report must be prepared to the satisfaction of the Responsible Authority which sets out how future development may achieve:

- WSUD objectives and requirements pursuant to the planning scheme; and
- ESD objectives and requirements pursuant to the planning scheme

DRAINAGE

A drainage assessment must be prepared to the satisfaction of the Responsible Authority which includes:

- A catchment analysis of the existing storm water drainage system in Burnley Street and Doonside Street;
- A capacity assessment for the existing drainage system into which future development will be discharged; and
- A flood analysis which determines the overland flow depth within the road reserve during a 1 in 100 year flood.

COMPREHENSIVE HERITAGE ANALYSIS

A Comprehensive Heritage Analysis must be prepared by a suitably qualified professional to the satisfaction of the Responsible Authority that includes the following, having regard to the heritage expert assessments prepared for Amendment C223:

- written description of the heritage places;
- history of the heritage places;
- assessment of significance of individual elements; and
- copies of the existing Statements of Significance of HO252 and HO375.

ACOUSTIC REPORT

- Development that includes residential or other sensitive uses must be designed and constructed to include noise design and noise attenuation measures that achieve the noise levels that are calculated by applying the method in Schedule B of State Environment Protection Policy No. N-1 'Control of Noise from Commerce, Industry and Trade (SEPP N-1). (or the equivalent

environment reference standard to be introduced under the Environment Protection Amendment Act 2018).

For the purpose of assessing whether the above noise standards are met, the noise measurement point shall be located inside a habitable room of a noise sensitive residential use with windows and doors closed.

- An application for a planning permit that includes residential or other sensitive uses must be accompanied by an acoustic assessment, prepared by a qualified acoustic consultant that demonstrates how the noise attenuation measures will achieve noise levels (within any noise sensitive area) in accordance with the Built Form Guidelines.

DEVELOPMENT STAGING

A staging plan to provide an indication of the likely staging of the development of land, specifically: The expected sequencing of development;

- The expected sequencing of works identified in the Public Realm Plan approved in accordance with this schedule;
- Likely vehicle access points, road infrastructure works and traffic management; and
- Interface/access treatments.

5.0 COMMUNITY CONSULTATION

The Development Plan ~~shall~~must be available for public inspection and submission for 28 days prior to its consideration by the Responsible Authority. Any submissions must be considered by the Responsible Authority in its decision.

Appendix B Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Mary Atwell	28	A & M Zeldenryk
2	Chris Correia	29	Bill & Joy Brown
3	Mireia Ayats	30	Natasha Wickramanayake
4	Corrine Wells	31	Philip Corbett
5	Ben Cooke	32	George Lattouf
6	Lucy Dawkins	33	R Depangher
7	Josh Potter	34	Clare O'Loughlin
8	Amanda Chisholm	35	Jane Power
9	Elaine Soo	36	Peter and Suzette Carrington
10	Claire Atkinson	37	Fiona Wilson
11	Nikkiah Signorini	38	Julia Di Santo
12	Stephen Tang	39	Paola Sticca
13	Emma Clohesy	40	Keanne Stephenson
14	Cora Luo	41	Lucas & Naomi Riley
15	Chrisella Hondrakis	42	T Jackson
16	David Fogarty	43	G & I Coffey
17	Anton & Arockia Victoria	44	N Deans
18	Tommy Hu	45	J Dick
19	Michelle Hu	46	N Golusin
20	Amanda Wells	47	M Collins
21	Asaf Rotbart	48	R Robertson
22	Caitlin Johnson & Campbell Tickell	49	S Brooke
23	Glenn Casey	50	Anonymous
24	Ian and Linda Davis	51	T Pikoulis
25	Russ Hogan	52	A & H Holmes
26	Vivian Poloni	53	B & J Brown
27	RA Jones		

Appendix C Document list

No.	Date provided	Description	Circulated by
1	13/03/20	Notice of preparation of Amendment C223	Yarra City Council
2		Amendment C223 Explanatory Report	“
3		Amendment C223 instruction sheet	“
4		Amendment authorisation letter dated 9 August 2019	“
5		Consolidated submissions	“
6		Planning Scheme Amendment report prepared by Tract Consultants dated December 2018	“
7		Traffic impact report prepared by Ratio Consultants dated 19 December 2018	“
8		ESD report prepared by GIW Environmental Solutions dated 20 December 2018	“
9		Traffic engineering review letter prepared by Leigh Furness of Traffix Group dated 18 January 2019	“
10		Heritage report prepared by Bryce Raworth Pty Ltd dated December 2018	“
11		Housing diversity and adaptability report (Stage 1) prepared by Affordable Development Outcomes dated May 2019	“
12		Environmental site assessment report prepared by Charter Keck Cramer dated 30 May 2016	“
13		Economic assessment report prepared by Deep End Services dated 20 December 2018	“
14		Agenda of the Ordinary Meeting of Yarra City Council of 3 March 2020	“
15		Agenda of the Ordinary Meeting of Yarra City Council of 16 July 2019	“
16		Exhibited Planning Scheme Ordinance – draft Schedule 15 to Clause 43.04 Development Plan Overlay	“
17		Exhibited Planning Scheme Overlay Map for Development Plan Overlay – Schedule 15 prepared by Department of Environment, Land, Water and Planning	“
18		Exhibited Planning Scheme Overlay Map for Environmental Audit Overlay prepared by	“

No.	Date provided	Description	Circulated by
		Department of Environment, Land, Water and Planning	
19		Exhibited Planning Scheme Zoning Map prepared by Department of Environment, Land, Water and Planning	“
20	27/04/20	Panel directions letter	Planning Panels Victoria
21	7/05/20	Letter responding to Panel Directions 3, 5 and 6	Marcus Lane Group on behalf of Yarra City Council
22	“	Panel E-Book prepared by Yarra City Council dated 7 May 2020	“
23	“	Council’s response to Panel Direction 3(b)	“
24	“	Council’s Part A submission	“
25	8/05/20	Shadow studies prepared by MGS Architects	“
26	11/05/20	Expert report of Mr Rob McGauran of MGS Architects	“
27	“	Expert report of Mr Jim Gard’ner of GJM Heritage	“
28	“	Expert report of Ms Charmaine Dunstan of Traffix Group	“
29	“	Expert report of Ms Joanna Thompson of Thompson Berrill Landscape Design	“
30	“	Expert report of Ms Sophie Jordan of Sophie Jordan Consulting	Planning & Property Partners on behalf of the Proponent
31	“	Expert report of Mr Michael Barlow of Urbis	“
32	“	Expert report of Mr Peter Lovell of Lovell Chen	“
33	“	Expert report of Mr Bryce Raworth of Bryce Raworth Conservation & Heritage	“
34	“	Expert report of Ms Hilary Marshall of Ratio Consultants	“
35	“	Expert report of Ms Catherine Heggen of Ratio Consultants	“
36	12/05/20	Request for extension for circulation of Council’s Part B submission	Marcus Lane Group
37	13/05/20	Response to Item 4 of Panel Directions	Planning & Property Partners

No.	Date provided	Description	Circulated by
38	“	Memorandum of heritage advice by B Raworth and M Turnor dated 22 May 2017	“
39	“	Heritage report prepared by Bryce Raworth Pty Ltd dated August 2016	“
40	“	Revised heritage report prepared by Bryce Raworth Pty Ltd dated September 2016	“
41	“	Revised heritage report prepared by Bryce Raworth Pty Ltd dated December 2017	“
42	“	Copy of endorsed plans prepared by CHT Architects – Embassy Apartments 27 Appleton Street, Richmond	“
43	“	Plan of survey prepared by Charter Keck Cramer	“
44	14/05/20	Council’s updated E-Panel Book dated 14 May 2020	Marcus Lane Group
45	15/05/20	Council’s Part B submission	“
46	18/05/20	Schedule 15 to the Development Plan Overlay with tracked changes	“
47	“	Aerial and maps required by Panel Direction 3B	“
48	“	List of Council’s reference documents (further E-book)	“
49	“	Yarra C218 and C219 Panel reports	“
50	19/05/20	Updated list of Council’s reference documents (further E-book)	“
51	“	Summary of traffic expert discussion	Planning & Property Partners
52	“	Presentation of Charmaine Dunstan of Traffix Group	Marcus Lane Group
53	21/05/20	Letter outlining financial contributions for traffic improvements along Burnley Street	“
54	22/05/20	Proponent’s opening submissions	Planning & Property Partners
55	24/05/20	Tribunal decisions referred to in oral evidence of Mr McGauran	Marcus Lane Group
56	“	Cambridge St envelope reduction and 3D images	“
57	25/05/20	Memorandum of Ms Marshall	Planning & Property Partners
58	“	Mr Barlow presentation	“

No.	Date provided	Description	Circulated by
59	“	Ms Heggen presentation	“
60	26/05/20	Submission	Peter and Suzette Carrington
60a	“	Attachment A - Photos	“
60b	“	Attachment B – Vehicle sale trends	“
61	“	Objection to Doonside rezoning	“
62	“	Amendment Fact Sheet referred to by Ms Lane	Marcus Lane Group
63	“	Submission	Jane Power
64	“	PowerPoint slides	“
65	27/05/20	Submission	Salta Properties Pty Ltd.
66	“	VCAT decision <i>278 Little Lonsdale Street Pty Ltd v Yarra CC</i>	“
67	“	VCAT decision <i>Pace Development Group Pty Ltd v Yarra CC</i>	“
68	“	Astrodome substantive submissions	Planning & Property Partners
69	“	Images referred to in submissions	“
70a	“	Development plans of 25-35 and 10-20 River Boulevard, Richmond	“
70b	“	Endorsed plans of 10-20 River Boulevard, Richmond	“
71	“	Aerial photograph of 10-20 and 25-35 River Boulevard sites marked	Salta Properties Pty Ltd
72a	“	Amended Development Plan - PL 10/0156.03 25 - 35 River Boulevard and 15 Christine Crescent, Richmond	“
72b	“	Endorsed plan extracts PL 10/0156.03 25 - 35 River Boulevard and 15 Christine Crescent, Richmond	“
73	“	Development Plan - PLN 161156	“
74	“	Extract of plans currently with Council for endorsement - PLN 161156	“
75	29/05/20	Proponent’s proposed version of DPO15	Planning & Property Partners

No.	Date provided	Description	Circulated by
76	05/06/20	Council's final preferred version of DPO15	Marcus Lane Group
77	09/06/20	VCAT decisions summary table	Planning & Property Partners
78	"	Council reply submission	Marcus Lane Group
79	"	Council's final preferred version DPO15	"
80	10/06/20	Email correspondence between Council officers and VicRoads	"